



chatham islands council

Performance Audit & Risk Committee

MEETING PACK

for

PARC Meeting

Monday, 18 November 2024

9:00 am (+1345)

Held at:

Chatham Islands Council

13 Tuku Road, Chatham Islands

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AGENDA

PARC MEETING



Name:	Performance Audit & Risk Committee
Date:	Monday, 18 November 2024
Time:	9:00 am to 11:00 am (+1345)
Location:	Chatham Islands Council, 13 Tuku Road, Chatham Islands
Committee Members:	Mr Philip Jones (Committee Chair), Mayor Monique Croon, Cr Keri Day, Cr Greg Horler, Cr Steve Joyce
Attendees:	Ms Jo Guise, Ms Colette Peni, Paul Eagle, Ms Tanya Clifford

1. Opening Meeting

1.1 Apologies

1.2 Interests Register

1.3 Action List

Supporting Documents:

1.3.a	Action List	5
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2. Confirm Minutes

2.1 Minutes 7 October 2024

For Decision

To confirm the minutes from the previous meeting.

Supporting Documents:

2.1.a	2.1 Minutes of PARC Meeting 7 October 2024.pdf	6
2.1.b	7 Oct 2024 Minutes in Review PARC Meeting.pdf	7

3. Financial Report

3.1 Financial Report

For Information

For the PARC to receive the financial report for August 2024.

Supporting Documents:

3.1.a	3.1 Financial Report.pdf	10
3.1.b	PARC October 2024.pdf	11

4. Draft Policies

4.1 Draft Policies

Ms Colette Peni

For Discussion

Draft policies to be presented to PARC for comments or amendments.

Supporting Documents:

4.1.a	4.1 Draft Policies.pdf	15
4.1.b	Draft CIC Bullying, Harassment and Discrimination Policy June 2023.docx	16
4.1.c	Fraud Corruption and Whistleblowing Policy 2024 (Finalised).docx	21
4.1.d	Draft CIC Bullying, Harassment and Discrimination Guidelines June 2023.docx	34
4.1.e	Draft Chatham Islands Conflict of Interest (Including Gifts and Koha) Policy and Guidelines 2024 17 July 2024.docx	40

5. Close Meeting

5.1 Close the meeting

Next meeting: PARC Meeting - 9 Dec 2024, 9:00 am

Action List

Performance Audit & Risk Committee



As of: 14 Nov 2024

Cost reduction programme

In Progress

A draft cost reduction programme would be presented to the Chair by 21 August 2024

Due Date: 21 Aug 2024

Owner: Paul Eagle

Meeting: 29 Jul 2024 PARC Meeting, 3.1 Financial Report

Write to Minister re

Not Started

Write to Minister noting *'the previous government had promised that the Chathams would be looked after by the DIA. They have now reneged on that. Other councils received transition funding and the Chathams received none. The consequences of promises made to us by previous governments are now leaving us in serious financial situation and you, Minister, are now demanding that we do a whole lot of extra work of which we have no funding where other Councils do.'*

Due Date: 7 Oct 2024

Owner: Paul Eagle

Meeting: 16 Sept 2024 PARC Meeting, 1.3 Action List

PNL on Petrol

Done

Chair requested a PNL on petrol costs

Due Date: 7 Oct 2024

Owner: Ms Colette Peni

Meeting: 16 Sept 2024 PARC Meeting, 3.1 Financial Report

Impact of Shipping Delays

Not Started

Mayor requested identifying the extra costs and impact from shipping delays.

Due Date: 7 Oct 2024

Owner: Ms Colette Peni

Meeting: 16 Sept 2024 PARC Meeting, 3.1 Financial Report

Forecasting for Expenditure

Not Started

CE to do forecasting for expenditure opex and capex

Due Date: 7 Oct 2024

Owner: Paul Eagle

Meeting: 16 Sept 2024 PARC Meeting, 3.1 Financial Report



Performance, Audit and Risk

2.1 Minutes of Meeting 7 October 2024

Date of meeting	18 November 2024
Agenda item number	2.1
Author/s	Jo Guise, Executive Assistant

Purpose

To approve the minutes from the Performance, Audit & Risk meeting held on 7 October 2024.

Recommendations

THAT the minutes of the Performance, Audit & Risk meeting held on 7 October 2024 be a true and accurate record.

MINUTES (in Review)

PARC MEETING



Name:	Performance Audit & Risk Committee
Date:	Monday, 7 October 2024
Time:	9:00 am to 9:30 am (+1345)
Location:	Chatham Islands Council, 13 Tuku Road, Chatham Islands
Committee Members:	Mr Philip Jones (Committee Chair), Mayor Monique Croon, Cr Keri Day, Cr Greg Horler, Cr Steve Joyce
Attendees:	Ms Jo Guise, Ms Colette Peni, Paul Eagle, Ms Tanya Clifford

1. Opening Meeting

1.1 Apologies

1.2 Interests Register

1.3 Action List

Due Date	Action Title	Owner
21 Aug 2024	Cost reduction programme Status: In Progress	Paul Eagle
7 Oct 2024	Write to Minister re Status: Not Started	Paul Eagle
7 Oct 2024	PNL on Petrol Status: Completed on 7 Oct 2024	Ms Colette Peni
7 Oct 2024	Impact of Shipping Delays Status: Not Started	Ms Colette Peni
7 Oct 2024	Forecasting for Expenditure Status: Not Started	Paul Eagle



Action List

THAT the Action List be received.

Decision Date: 7 Oct 2024
Mover: Mayor Monique Croon
Seconder: Cr Steve Joyce
Outcome: Approved

2. Confirm Minutes

2.1 Confirm Minutes 16 September 2024



Minutes PARC Meeting 16 September 2024

THAT the minutes from the meeting on 16 September 2024 be a true and accurate record.

Decision Date: 7 Oct 2024
Mover: Cr Steve Joyce

Seconded: Cr Keri Day
Outcome: Approved

3. Financial Report

3.1 Financial Report



Financial Report

THAT the Financial Report be received.

Decision Date: 7 Oct 2024
Mover: Mayor Monique Croon
Seconded: Cr Keri Day
Outcome: Approved

Tanya Clifford gave an update on the Annual Report 2023/24.

The current areas of focus were Going Concern and Fair Value Assessment.

The Chief Executive would forward the Fair Value Assessment paper to the Chair following the Audit meeting the following day.

Financial Report - The Chief Executive was currently working on a cost reduction programme.

Still expecting to sign off on the annual report by the end of the month.

3.2 Petrol Income and Expenditure

Colette Peni advised there was a difference of \$38k and had spent more than they had received, which was due to a timing issue. There were still more expenses to be received as they had sent empty ISO's back to the supplier. There was still 15,000L available to sell at \$4.50 per litre - \$67,000 still to come in, so it will more than make up the difference.

The CE noted there was no guarantee there would not be a repeat of the fuel resilience issue, and they were vulnerable if that happened again. Also if there was a sale of the property where the bowsers and ISO's sit .

The CE would provide a fuel report at the next meeting.



Petrol Income & Expenditure

THAT the Performance, Audit & Risk Committee receives the report.

Decision Date: 7 Oct 2024
Mover: Cr Keri Day
Seconded: Cr Steve Joyce
Outcome: Approved

4. Move to Public Excluded

4.1 Public Excluded Agenda



Move to Public Excluded

THAT the meeting move to public excluded.

Decision Date: 7 Oct 2024

Mover: Cr Keri Day
Second: Mayor Monique Croon
Outcome: Approved

The meeting moved in to public excluded at 9.28am and out 9.29am.

5. Confirm PE Minutes

5.1 Public Excluded Minutes 16 September 2024



PE Minutes from 16 September 2024

THAT the minutes from the public excluded meeting be a true and accurate record.

Decision Date: 7 Oct 2024
Mover: Cr Steve Joyce
Second: Mayor Monique Croon
Outcome: Approved

Colette Peni advised the Rates submission left on the table at the last meeting would be on the agenda on 18 November.



Out of Public Excluded

THAT the meeting move out of public excluded.

Decision Date: 7 Oct 2024
Mover: Mr Philip Jones
Second: Cr Keri Day
Outcome: Approved

6. Close Meeting

6.1 Close the meeting

Next meeting: PARC Meeting - 18 Nov 2024, 9:00 am

Signature:_____

Date:_____



Performance, Audit & Risk Committee

3.1 Financial Report

Date of meeting	18 November 2024
Agenda item number	3.1
Author/s	Tanya Clifford, ECan

Purpose

To present to the Performance, Audit & Risk Committee the financial report for October 2024.

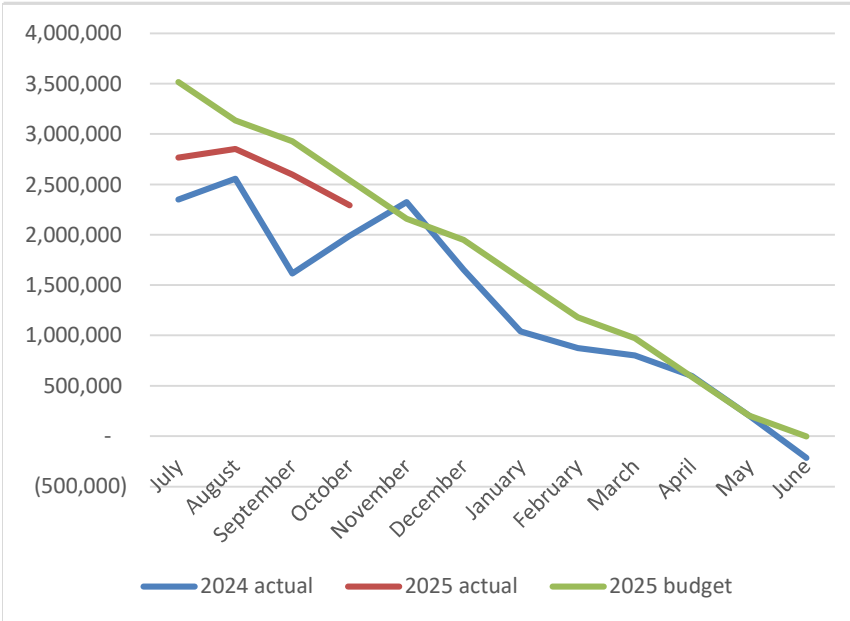
Recommendations

That the Performance, Audit & Risk Committee receives the report.

Graphical Financial Information

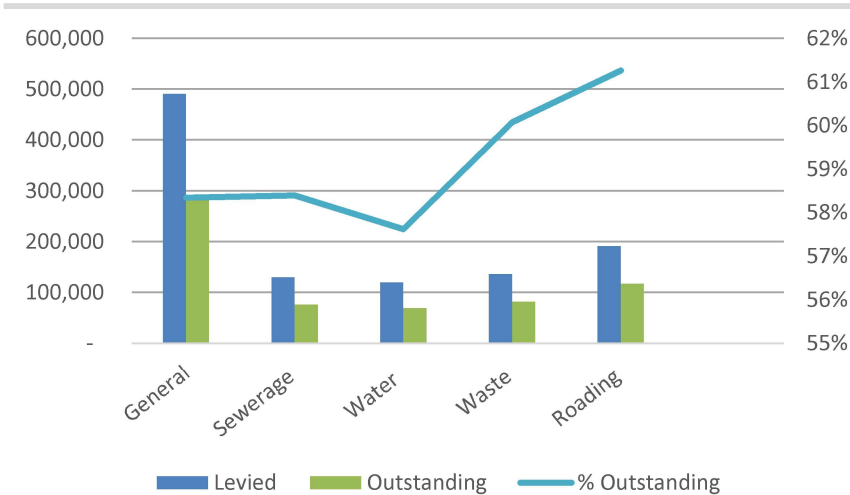
as at 31 October 2024

Cash



The 2024 line has several cash spikes, reflective of better off funding cash receipts. Such trends are not expected in 2025, rather a steady downward trend with the cash balance is more likely, in line with the 2025 budget. The 2025 actual cash balance is currently trending below expectation. The implications, if this trend continues will be additional use of the Council's overdraft facility at year end (potentially requiring approval to extend - currently an overdraft facility of \$500,000 is available). It is likely further unexpected costs are likely to arise, which will result in further draw down on the Council's cash balance.

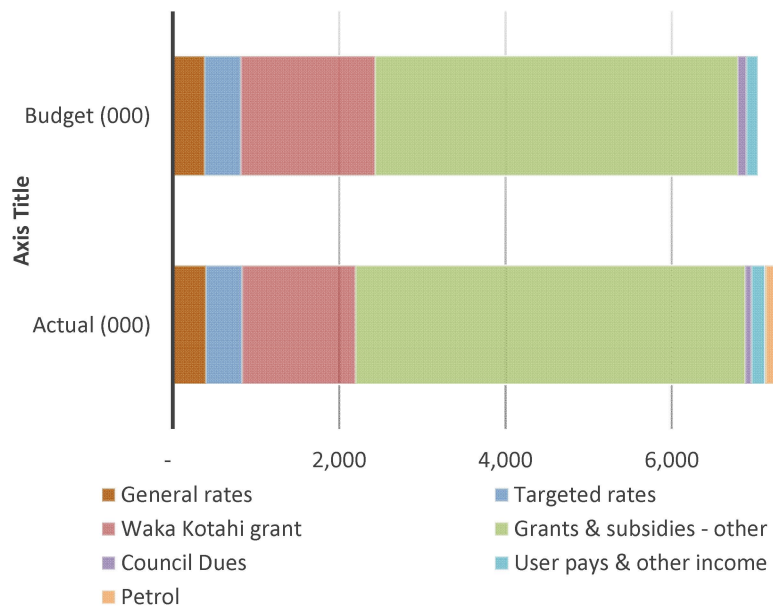
Revenue rates collectability



Council has four rate instalment dates for the 2025 financial year; with the second instalment due on the 14th November 2024. The overall level of rates outstanding is currently 67%.

There is a slightly higher level of rates outstanding at the beginning of the current financial year than the previous financial year; with financial volatility within the community potentially having an impact on the ability for certain land owners to pay rates. Where this is the case, promotion of the rating remissions process could be further highlighted. Further trend analysis will become stronger as the financial year progresses.

Revenue



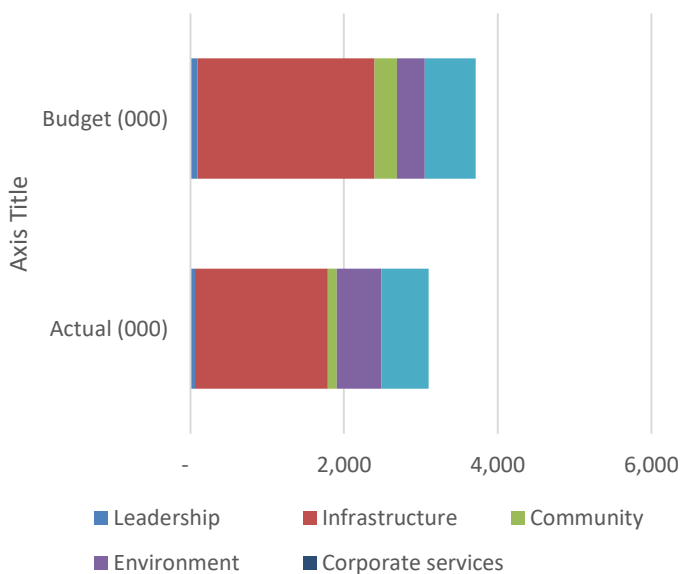
No significant items of concern related to revenue items. However, it is worth noting:

* Waka Kotahi, NZTA subsidy is driven by actual expenditure on roading works. The grant includes capital and operating expenditure.

* Full annual appropriation from the Department of Internal Affairs was received in July, to cover operational expenditure across the year.

* Historically, Council has received grant funds for projects still to be completed (e.g. the water tank project); this project has been delayed and costs remain on-going (but not budgeted in 2025). This may have future impacts on the Council's ability to manage cashflow. There is a risk sufficient cash may not be available to meet these obligations.

Operating & Capital Expenditure



No significant items of variance related to expenditure. Expenditure graph has been designed to be comparable with the revenue graph (above). As the year progresses, expenditure will increase aligning with revenue, which primarily receives funds in July.

Statement of Comprehensive Revenue and Expense

as at 31 October 2024

	Actual (000) \$000	Budget (000) \$000	Variance	Note Reference
Revenue				
General rates	398	381	17	1
Targeted rates	433	436	(3)	1
Grants & subsidies - Waka Kotahi NZTA	1,365	1,617	(252)	2
Grants & subsidies - other	4,685	4,362	323	2
Council Dues	79	103	(24)	4
<i>Petrol</i>	130	-	130	3
User pays, fees & charges and other income	166	139	28	4
Total revenue	7,258	7,038	220	
Expenditure				
Leadership and community partnerships	62	94	(32)	
Transportation, roading and coastal networks	590	624	(35)	5
Three waters - water	74	115	(40)	5
Three waters - wastewater & stormwater	47	66	(18)	5
Waste management and minimisation	274	251	23	5
Community development & emergency response	217	290	(73)	
- <i>petrol</i>	263	-	263	3
Environmental management, protection and monitoring	117	361	(244)	6
Corporate services	620	664	(44)	
Total expenditure by activity	2,264	2,465	(201)	
Total surplus/(loss)	4,994	4,573	421	

Depreciation expenditure of \$2.2 million has been excluded, as the financial report focuses primarily on cash.

The 2024/25 budget cash movement for the year estimates a \$33 thousand cash loss for the year - assuming \$260 thousand in expenditure reductions are achieved and no significant other areas of expenditure increase. Negotiation with ECan remains ongoing, with an indicative service agreement of \$1 million proposed, reducing expenditure by approximately \$460 thousand. This proposal may require further services to be contracted from an alternative service provider and a review to the current approach to how some services are delivered by ECan. While this seems positive, there remains significant concerns over Council's liquidity, especially given Council currently has no cash 'reserves', Council should look to ways to minimise expenditure and increase revenues to build a separate reserve fund. The overall impact of this operating environment, means Council may face significant cashflow pressures in the future, and therefore a conservative approach with expenditure is encouraged. Closing cash balance 31 October 2024 was \$2.557 million.

Variance explanations:

- 1 Rates are invoiced based on the Council approved rates strike. Minor variances are due to recognition of penalty payments and repayment of outstanding rates.
- 2 Roading subsidy based on 88% of actual expenditure (operational and capital). The negative variance in revenue is matched against the negative variance with roading capital and operational expenditure. Some roading projects have been delayed. The remaining difference in other grants are primarily timing related, the budget assumes a equal allocation of grant receipts for the year (except annual appropriation which is estimated being received in July), whereas actual receipt is occurs when conditions are met and application is completed.
- 3 The Council has recently facilitated the supply of petrol on the island which has been separately disclosed (in revenue and expenditure) to show greater transparency. Petrol is an unbudgeted item, shipping logistic challenges have had a significant impact on the Council's ability to supply petrol to the community. There remain some timing differences in revenue and expenditure petrol transactions within the system, but overall a small surplus is recognised.
- 4 No significant variances of note or other comments related to other income.
- 5 Infrastructure projects - Works primarily relate to the Stantec/Fulton Hogan roading, water, wastewater and waste management contracts. Roading has been impacted with various logistical challenges, resulting in some projects being delayed, expenditure is likely to accelerate as the year progresses. Three waters work has been limited with funding restrictions, impacting levels of service Council is able to provide; lack of investment in critical asset maintenance increases the risk of asset failure. There remains a significant level of uncertainty related to how the Local Water Done Well plan will apply to Council and how the expected work will be funded.
No other significant areas of variance to note, with contract for services operating within agreed deliverables.
- 6 The ECan contract in terms of levels of service and fee agreement remains under negotiation. Consequently, services are being negotiated with the CE on an ad hoc basis. Invoicing likely to be on a quarterly basis, reflecting actual service provided. Actual fees have also been off-set by a return of the 2024 excess payment compared to service for the year.
No significant variances of note or other comments related to other expenditure.

Capital expenditure summary	Actual \$000	Budget \$000	Variance	Note Reference
Sources of capital funding				
Subsidies and grants for capital expenditure	651	1,137	(486)	a
Total sources of capital funding	651	1,137	(486)	
Application of capital funding				
Roading works	740	1,250	(509)	a
Other - including community works	99	3,212	(3,113)	b
Total application of capital funding	839	4,461	(3,622)	
Movement in reserves	6,504	2,322	4,182	

Variance explanations:

- a** The grant figure relates to the Waka Kotahi budget, which is reflective of 88% of actual costs incurred. Actual expenditure behind expected budgeted levels, which are allocated assuming an equal monthly spread over the year.
- b** Other work includes: \$95k in building upgrades.

Note, budget figures are allocated on an equal monthly apportionment



Performance, Audit & Risk Committee

4.1 Draft Policies

Date of meeting	18 November 2024
Agenda item number	4.1
Author/s	Colette Peni, Operations Manager

Purpose

To present draft policies to the Performance, Audit & Risk Committee for comments and amendments prior to being presented to full Council for adoption.

Recommendations

That the Performance, Audit & Risk Committee -

1. Receives the policies;
2. Advises amendments to the policies.



BULLYING, HARRASSMENT AND DISCRIMINATION POLICY

PURPOSE

I'd suggest having a Te Reo /Mori introduction that reflects the English statement below – we would need guidance this

To support a safe, supportive, fair and inclusive work environment for everyone, by reinforcing expectations around positive, values aligned behaviours and by acting to minimise the risk that kaimahi are exposed to, or affected by harassment, bullying or discriminatory behaviours.

To reduce incidents of poor behaviour, or if behaviours and actions occur that are not aligned to our culture, Code of Conduct, and Values, we will ensure that kaimahi:

- Are able to recognise unacceptable behaviour and how to address it.
- Understand the impacts of harassment, bullying or discrimination, which can include both impacts on individuals and the organisation including:
 - individuals experiencing performance or health problems, loss of self-esteem or self-confidence; and/or
 - impacts on the organisation such as a drop in morale, rifts within the workplace as people take sides, increased staff turnover or retention issues, or financial and productivity losses for all parties.
- Recognise, understand and are able to effectively minimise the likelihood of harassment, bullying and discrimination occurring either at work or through channels external but connected to work, (such as social media, email, or social events).
- Know what options exist to resolve situations of alleged bullying, harassment or discrimination.
- Are informed, supported and able to take appropriate action using either informal or formal resolution.

APPLIES TO

This policy applies to all kaimahi, external labour, contractors, volunteers, and consultants of Council.

DEFINITIONS

Bullying

This definition is adopted from WorkSafe's good practice guidelines, "Preventing and Responding to Bullying at Work".

Workplace bullying is:

- **Repeated** and **unreasonable** behaviour directed towards an individual or group of kaimahi that can lead to physical or psychological harm.
 - **Repeated** behaviour is persistent (occurs more than once) and can involve a range of actions over time.
 - **Unreasonable** behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating or threatening a person.



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- Bullying may also include harassment, discrimination, or violence (See Appendix 1 for examples).

Harassment

Harassment, including racial and sexual harassment, may exist on its own or may form part of bullying. It typically involves an act or behaviour that is repeated or significant to the extent that it has a detrimental effect on a person's dignity, welfare or privacy (See Appendix 1 for examples).

Discrimination

Discrimination includes conduct, action or inaction, which is likely to result in less favourable treatment, or create a less favourable environment, for any person/group than for another under similar circumstances.

The prohibited grounds for discrimination, as set out in the Human Rights Acts 1993 are:

- Sex (including pregnancy and childbirth),
- marital status,
- religious belief,
- ethical belief,
- colour,
- race,
- ethnic or national origins,
- disability, age,
- political opinion,
- employment status,
- family status,
- sexual orientation (including gender identity),
- and/or being affected by family violence.

Other

Other behaviours, including one-off incidents of unreasonable behaviour may still be out of alignment with Council Values and may constitute misconduct.

If you are concerned about behaviours, you have experienced or witnessed, you should talk with your manager in the first instance.

Kaimahi

Kaimahi includes all kaimahi, external labour, contractors, volunteers, and consultants of Council.



TYPES OF BULLYING

Bullying behaviours generally fit into two categories, either:

Personal (Direct)

Examples include:

Intimidation, threats of violence, physical attacks, being shouted at, abusive/offensive language, ridiculing, belittling remarks, lies being told, sense of judgement questioned, tampering with personal effects/property, suggestive glances, unwanted sexual approaches, intruding on privacy, persistent or public criticism.

Task-related (Indirect)

Examples include:

“Setting up to fail”, meaningless tasks, constant criticism of work, excluding-isolating/ignoring views, withholding or concealing information required to complete a task, changing goal posts or targets, supplying incorrect or unclear information, making hints or threats about job security, undervaluing contribution— taking credit for work not own/not giving credit due, working below competence— removing responsibility/demotion, etc.

Further examples of Workplace Bullying can be found on the WorkSafeNZ website.

Workplace bullying is not:

- One- off or occasional instances of forgetfulness, rudeness or tactlessness.
- Setting high performance expectations and holding kaimahi accountable to those expectations.
- Constructive feedback and legitimate advice or peer review designed to improve work performance or the standard of behaviour.
- A manager expecting reasonable verbal or written work instructions to be carried out.
- Warning or disciplining kaimahi in line with Council’s Code of Conduct, Values, and disciplinary procedures.
- A single incident of unreasonable behaviour.
- Reasonable management actions delivered in a constructive way.
- Differences in opinion or personality clashes that do not escalate into harassment, bullying or violence. Making informed management decisions that a worker may disagree with.

HARASSMENT

As with any form of bullying or harassment, negative behaviours may be deliberate or unintentional. The key question to consider with harassment is “what is the effect on the person subjected to the conduct?”.

Racial Harassment

Racial harassment involves the use of language, visual material or physical behaviour that may directly or indirectly express hostility against or ridicule a person on the grounds of their race, skin colour, ethnic or national origins.



Sexual Harassment

Sexual harassment involves any physical or verbal sexual behaviour that is unwelcome, uninvited and unwarranted or offensive to a person, and that by its nature or through repetition, has a detrimental effect on that person.

It can arise from sexually oriented jokes, innuendo, unnecessary physical contact, invitations for outings, requests for sex, displays of offensive materials, posters or graffiti, derogatory comments, offensive messages, emails or telephone calls.

Other Forms of Harassment Described Under the Human Rights Act

Other instances of harassment include making negative or offensive comments about a worker's personal religious beliefs, ethical beliefs, sexual orientation, gender identity, age, disability, marital status, political opinion, employment status, victims of domestic violence or family status.

History of Changes

Date	Version	Council Adoption	Description
9/1/2023	1.0		Initial Policy
2/6/2023	2.0		Split Policy and guidelines Inclusion of Te Reo/ Mori Ori language Minor formatting changes



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DRAFT



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Fraud, Corruption and Whistleblowing Policy

Initials: _____



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Chatham Islands Fraud, Corruption and Whistleblowing Policy

History of Changes

Date	Version	Council Adoption	Description
9/1/2023	1.0		Initial Policy

Purpose and Objectives

Chatham Islands Council (**Council**) is committed to upholding the highest standards of behaviour. The Council does not tolerate any form of fraud, bribery or corrupt conduct (dishonest activities) and it may investigate all suspected instances of dishonesty related to its organisation.

This policy has been developed taking into account best practice under the Protected Disclosures (Protection of Whistleblowers) Act 2022 (**PD Act**) including the guidance provided from the Ombudsman in relation to protected disclosure internal policies and procedures.

The purpose of this policy is to:

- Identify and address the risk of dishonest activities, and to set out actions the Council may take when suspected dishonest activities are reported (or discovered) to protect Council's assets, reputation and staff.
- Provide high level guidance to employees of the Council who encounter or suspect fraud and corruption.
- Prevent, detect and respond to threats of fraud and corruption so that the risk of fraud and corruption is reduced and to ensure that timely action can be taken to rectify and remedy any harm caused.
- Facilitate protected disclosures for the prevention, detection and response to fraud, corruption and whistleblowing within or involving Council.
- Establish effective internal procedures for the investigation of reported serious wrongdoing.

Scope

Under this policy, all workers are obligated to report any instances of fraud or corruption, whether suspected or proven. Fraud and corruption may be committed:

Initials: _____



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- against the Council by any person (as defined in section 2 of the Crimes Act 1961 and Section 29 of the Interpretation Act 1999); or
- by Council employees against any third party (including another Council employee in a private capacity).

This policy applies to all current and former employees of the Council, whether they are employed on a permanent, fixed term contract or temporary basis, as well as current or former volunteers, secondees, homeworkers, contractors or consultants engaged by Council except where otherwise specified (together, referred to as **Workers**). This policy also applies to members of the Council (**Members**). Nothing in this policy alters Members' obligations to comply with the Members' Code of Conduct

Policy Detail

Fraud

The term 'fraud' refers to the deliberate practice of deception in order to receive a benefit (which may include an unfair, unjustified or unlawful gain), directly or indirectly, for oneself or any associated or third party. For the purposes of the policy this includes all forms of dishonesty. Within this definition, examples of fraud and dishonesty may include, but are not limited to:

- knowingly providing false, incomplete or misleading information to Council for a benefit;
- unauthorised possession, use or misappropriation of funds or assets, whether belonging to Council or a third party;
- deliberate mishandling or misreporting of money or financial transactions;
- unauthorised access and misuse of Council systems and information for a benefit;
- misuse of, or obtaining, insider knowledge of organisational or judicial activities without consent (this may also be considered corruption);
- destruction, removal, or inappropriate use of records, furniture, fixtures, or equipment for a benefit;
- deliberate misuse of Council resources (including work time, internet, cell phones, photocopiers, fax machines, computers, vehicles, mail services, Council addresses and phone numbers);
- forgery or alteration of any financial instrument; and / or
- forgery or alteration of any document or computer file or record belonging to Council; where any person who has a business involvement with Council acts dishonestly or unfairly, or breaches public trust.

Corruption

'Corruption' is the lack of integrity or honesty (especially susceptibility to bribery) or the use of a position of trust for dishonest gain. It includes foreign and domestic bribery, coercion, destruction, removal or inappropriate use or disclosure of records, data, materials, intellectual property or assets, or any similar or related inappropriate conduct.

Initials: _____



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Examples of corrupt conduct may include, but are not limited to:

- any person who has a business involvement with Council, improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others, for example, fabrication of business travel requirement to satisfy personal situations;
- knowingly providing, assisting or validating false, misleading, incomplete or fictitious information to circumvent Council procurement processes and procedures to avoid further scrutiny or reporting;
- disclosing private, confidential or proprietary information to outside parties without consent;
- accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to Council; and / or
- a member of the public influencing or trying to influence, a Worker or any other party that has a business involvement with Council to use his or her position in a way that is dishonest, biased or which breaches public trust.

Reporting and investigating fraud and corruption

The Local Government Act 2002 requires the Council, including elected members, and Workers to safeguard public assets and spend public funds within the standard of probity and financial prudence, such that all public assets and funds are appropriately used for the purposes intended.

Reporting

The Council treats reports of fraud in the strictest confidence to ensure that those who report fraud are not put at risk. Workers who report serious wrongdoing in the workplace are afforded protections under the PD Act. Further information about the PD Act, such as how and when it applies is set out under the Protected Disclosures section of this policy.

Any person who is aware of or suspects that a fraudulent or corrupt act is occurring or has occurred, must immediately report such activity as follows:

- Any suspicion of fraud should be reported to a Worker's manager.
- A Worker's manager is responsible for bringing it to the attention of the Chief Executive Officer (CE).
- A Worker may also report concerns to the CE directly.
- If a Worker is concerned about raising this with their manager or the CE, the Worker can raise concerns with the Human Resources Team.

Workers must cooperate with and not impede any investigation of suspected fraud or corruption. All information relating to the suspected fraud or corruption will be treated

Initials: _____



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confidentially, noting that appropriate disclosures may need to be made for the purposes of investigating the suspected fraud or corruption in accordance with this Policy.

Please note that sufficient information should be provided to enable investigation of the suspected fraud or corrupt act. This should include details about the events or acts constituting the suspected fraud or corrupt act, such as: dates, times and persons alleged to be involved together with any documentary evidence or verifiable facts that support the allegation.

Investigating

The Council will treat all suspected instances of fraud or corruption by Workers very seriously and may undertake some, or all, of the following actions as appropriate:

- assess reports of suspected fraud to determine whether further investigation is required;
- investigate suspected instances of fraud by Workers;
- seek to recover funds/assets lost through fraud wherever possible and practicable;
- report fraud or suspected fraud to the external auditors; and
- if assessed as appropriate, refer the matter to the Serious Fraud Office (**SFO**) or NZ Police at an appropriate time during or following the investigation process and/or any subsequent disciplinary process.

The Council will also:

- ;
- develop, maintain and review processes and procedures to prevent and detect instances of fraud; and
- consistently apply this policy.

Free and unrestricted access must be granted to the investigator to access and review Council records and premises.

Fraudulent or corrupt activity must only be reported to the Police, SFO or any other enforcement agency by the Council's CE following consultation, if practicable, with the Council's Performance, Audit and Risk Portfolio Committee (**PARC**). This action will occur where the Suspected Fraud and Corruption, Reporting and Investigation Process confirms that a fraud or corrupt act has been committed, or in the absence of information there is reasonable belief an incident of fraud and corruption has occurred.

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Protected Disclosures/Whistleblowing

Council is committed to facilitating the disclosure and timely investigation of serious wrongdoing in the workplace (also known as whistleblowing). Where practically possible, and in line with any legislative requirements, the identity of all the parties involved in the reporting and investigation will be kept confidential and protected (see **Confidentiality** below).

Policy principles

Council has a duty to promote the public interest, and a statutory and contractual obligation to develop and maintain a safe workplace for all disclosers (as defined by this Policy and the PD Act).

Disclosers

All Workers, as well as those concerned with the management of Council are able to make a protected disclosure under the PD Act (**Disclosers**).

All Disclosers are encouraged to report serious wrongdoing in their workplace to protect the reputation of Council and the integrity of public funds.

Protected Disclosures

A disclosure of information is a Protected Disclosure if the Discloser:

- believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the Council; and
- discloses information about that in accordance with the PD Act, and this Policy; and
- does not disclose it in bad faith.

(**Protected Disclosure**).

In addition to these requirements, any disclosure of information that is protected by legal professional privilege is not a Protected Disclosure.

Serious Wrongdoing

Serious wrongdoing includes any act, omission, or course of conduct in (or by) any organisation, including the Council, that is:

- an offence;

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- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment;
- a serious risk to the maintenance of the law, including the prevention, investigation and detection of offences or the right to a fair trial;
- an unlawful, corrupt or irregular use of public funds or public resources; or
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement, and is done (or is an omission) by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government.

Council's Internal Procedures for Receiving Protected Disclosures

Protections for the Discloser

A Discloser is entitled to protection for a Protected Disclosure made in accordance with the PD Act, even if they are mistaken and there is no serious wrongdoing.

The protections a Discloser is entitled to under the PD Act and this policy are:

- confidentiality (see **Confidentiality** below);
- not to be retaliated against, or to be threatened with retaliation, by Council;¹
- not to be treated less favourably, or to be threatened to be treated less favourably, than others by Council;² and
- immunity from civil, criminal, and disciplinary proceedings.

These protections extend to people who volunteer supporting information for the Protected Disclosure, and a receiver referring a Protected Disclosure to an appropriate authority (see **Appropriate Authority** below).

The PD Act provides that a Discloser who suffers retaliatory action by the organisation for making a Protected Disclosure can take a personal grievance under the Employment Relations Act 2000.

It is also unlawful under the Human Rights Act 1993 to treat whistleblowers or potential whistleblowers less favourably than others in the same or similar circumstances. If a whistleblower is victimised in this way, the legal remedies under the Human Rights Act 1993

¹ Protected Disclosures (Protection of Whistleblowers) Act 2022, s 21.

² Protected Disclosures Act 2022, s 22.

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may be available to them. This applies to all types of Disclosers, including persons not covered by the Employment Relations Act 2000.

A Discloser is entitled to protection even if:

- they are mistaken and there is no serious wrongdoing; or
- they do not specifically refer to the PD Act when making the Protected Disclosure; or
- they technically fail to comply with some of the PD Act's requirements (if they have substantially complied with the PD Act); or
- they also make the disclosure to another person (if they do so on a confidential basis, in order to seek advice about whether or how to make a Protected Disclosure).

Protection does not apply where allegations are made that the Discloser knows are false, if the Discloser acts in bad faith, or if the information disclosed is protected by legal professional privilege (see Protected Disclosure above).

Confidentiality

If the Discloser makes a Protected Disclosure, information which identifies them will be kept confidential by the receiver, unless:

- the Discloser consents to the release of the identifying information; or
- if there are reasonable grounds to believe that the release of the identifying information is essential:
 - for the effective investigation of the Protected Disclosure;
 - to prevent a serious risk to public health, public safety, the health and safety of any individual, or the environment;
 - to comply with the principles of natural justice; or
 - to an investigation by a law enforcement or regulatory agency for the purposes of law enforcement.

If there are reasonable grounds to believe that the release of the identifying information is essential for the effective investigation of the Protected Disclosure, or to comply with natural justice, the receiver at Council will consult with the Discloser before releasing the identifying information.

If there are reasonable grounds to believe that the release of the identifying information is essential to prevent a serious risk to public health, public safety, the health and safety of any individual, or the environment; or is essential to an investigation by a law enforcement or regulatory agency for the purposes of law enforcement, the receiver at Council will, if practicable, consult with the Discloser, before releasing the identifying information.

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Council will meet its obligations to keep the identity of the Discloser confidential by taking various measures, including:

- ensuring that knowledge of the Protected Disclosure is limited to the fewest number of people necessary (on a need-to-know basis) to determine how the disclosure should be dealt with; and
- the receiver taking reasonable steps upon receiving the Protected Disclosure to ensure that the disclosure will remain confidential, including storing the information, relevant to the Protected Disclosure, in a secure manner, away from general access.

If identifying information about the discloser is released for any reason, Council will use its best endeavors to ensure that the other protections that the Discloser is entitled to under the PD Act and this Policy are complied with (see **Protections for the Discloser** above).

The release of information that might identify a Discloser in breach of these provisions means a complaint may be made under the Privacy Act 2020 for interference with privacy. As a result, the Privacy Commissioner may undertake an investigation.

How to make a Protected Disclosure

Disclosers are able to make a Protected Disclosure in writing, or orally.

Who to make a Protected Disclosure to in Council

Disclosers can make a disclosure to Council's Operations Manager.

However, if the Discloser believes on reasonable grounds that the Operations Manager is, or may be involved in the alleged serious wrongdoing, or disclosure to them is not appropriate because of their relationship or association with a person who is, or may be, involved in the alleged serious wrongdoing, then the discloser can make the Protected Disclosure directly to the CE.

Disclosers can make the Protected Disclosure directly to the Council's Mayor, if they believe on reasonable grounds that the CE, may be involved in the alleged serious wrongdoing, or disclosure is not appropriate because of their relationship or association with a person who is, or may be, involved in the alleged serious wrongdoing; or where it is justified by the urgency of the matter or other exceptional circumstances.

External Disclosures

Alternatively, Disclosers can make the Protected Disclosure directly to an appropriate authority (see **Appropriate Authority** below) at any time, if they do not wish to make the disclosure to the Operations Manager, CE, or the Council Mayor.

Disclosers can also make a Protected Disclosure to a Minister of the Crown under certain circumstances (see **Discloser's Entitlement to Disclose Further** below).

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Anonymous Disclosures

The Ombudsman can provide advice if a Discloser is considering whether to make an anonymous Protected Disclosure (see **Ombudsman** below).

Council's Process for Receiving Protected Disclosures

Where the Protected Disclosure is made to the Operations Manager, CE, or the Council's Mayor, within 20 working days of receiving the disclosure the receiver will, where appropriate in the circumstances:³

- (a) **acknowledge receipt** to the Discloser of the disclosure and the date it was made (and if the disclosure was made orally, summarise their understanding of the disclosure);
- (b) **consider** the disclosure, which may involve seeking specialist legal advice to assess whether or not the information meets the legal threshold to be a Protected Disclosure and whether it warrants investigation, inform the CE or Mayor of the Council (as appropriate), and confirm to the Discloser that the information has been passed on (any information that may identify the Discloser will not be passed on, unless the Discloser consents in writing or another exception applies (see **Confidentiality** above);
- (c) **check** with the Discloser whether the disclosure has been made elsewhere (and any outcome);
- (d) **deal with** the matter by doing one or more of the following:
 - investigating the disclosure;
 - addressing any serious wrongdoing by acting or recommending action;
 - referring the disclosure to an appropriate authority (see **Appropriate Authority** below) in accordance with the PD Act but not before consulting with the Discloser and the intended recipient of the referral (see **Referral of Disclosures** below);
 - deciding that no action is required (for example the requirements of the PD Act are not met, the length of time between the alleged wrongdoing and the disclosure makes an investigation impracticable, or the matter is better addressed by other means);⁴ and
- (e) **inform the Discloser (with reasons)** about what the receiver has done or is doing to deal with the matter, including if no further action is required.

³ Protected Disclosures Act 2022, s 13.

⁴ Protected Disclosures Act 2022, s 15.

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However, when it is impracticable to complete the above actions within 20 working days, the receiver will undertake the first three steps and inform the Discloser how long the receiver expects to take to deal with the matter. The receiver will then keep the Discloser updated as to progress, as appropriate.

Support for Disclosers

Upon receiving a Protected Disclosure, the receiver of the Protected Disclosure at Council will make best efforts to ensure that the Discloser receives adequate practical guidance and support, including:

- informing the Discloser of the protections they are entitled to under the PD Act (see **Protections for the Discloser** above);
- asking the Discloser whether they wish to have an appropriate support person to assist them by assessing any risks to the Discloser that may have been caused by their Protected Disclosure. If the Discloser wishes to have a support person, the receiver will consult the Discloser on who would be an appropriate support person;
- informing the Discloser of their ability under the PD Act and this Policy to also disclose to an appropriate authority (see **Appropriate Authority** below) and, in certain circumstances, to a Minister of the Crown (see **Discloser's Entitlement to Disclose Further** below);
- informing the Discloser of the process for Council to refer the Protected Disclosure to an appropriate authority (see **Referral of Disclosures** below);
- providing updates to Disclosers throughout the disclosure process; and
- providing any other practical assistance to Disclosers that may be necessary, including establishing support mechanisms to ensure that disclosers are not isolated and obtaining legal or other specialist advice if required. Where the Discloser is a current employee, this will include access to any Employee Assistance Program in place at the time.

Appropriate Authority

A Discloser may make a Protected Disclosure to an appropriate authority at any time. An appropriate authority is a trusted external party who can be approached if a Discloser is not confident about making the disclosure within Council (**Appropriate Authority**).

An Appropriate Authority includes:⁵

- The Ombudsman
- The Commissioner of Police
- The Controller and Auditor-General
- The Director of the Serious Fraud Office
- The Health and Disability Commissioner

⁵ See Schedule 2 of the Protected Disclosures (Protection of Whistleblowers) Act 2022 for a full list of appropriate authorities.

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- The Parliamentary Commissioner for the Environment
- The Solicitor-General
- The Public Services Commissioner
- WorkSafe New Zealand
- Department of Internal Affairs
- The head of every public sector agency
- Any officer of Parliament
- Privacy Commissioner

An Appropriate Authority does not include a Minister or Member of Parliament. However, in some circumstances, a discloser is able to make a Protected Disclosure to a Minister (see **Discloser's Entitlement to Disclose Further** below).

Referral of Disclosures

Upon receiving a Protected Disclosure, Council may refer the protected disclosure to an Appropriate Authority. Before doing so, Council may consult the Discloser, as well as the Appropriate Authority that it intends to refer the Protected Disclosure to. Once the disclosure has been referred, the Appropriate Authority that has received the referral will become the receiver of the Protected Disclosure.⁶

Discloser's Entitlement to Disclose Further

If the Discloser believes on reasonable grounds that receiver of a Protected Disclosure has failed to investigate the complaint in accordance with the Council's Internal Procedures, or has not dealt with the matter such that the serious wrongdoing has been addressed, the Discloser may also make the Protected Disclosure to a Minister of the Crown, in accordance with section 14 of the PD Act, and will be entitled to protections under the PD Act (see **Protections for the Discloser** above).

Disclosures to Media (including social media)

Disclosures to the media (or on social media) are not protected under the PD Act (journalists' protection of their sources is covered by other legislation).

The Role of the Ombudsman

As well as being an Appropriate Authority, the Ombudsman has a wide role supporting the operation of the PD Act. The Ombudsman can provide information and guidance to Disclosers regarding the protections under the PD Act.⁷ Please refer to www.ombudsman.parliament.nz and its *Making a protected disclosure – a guide to "blowing the whistle"* resource for further information.

⁶ Protected Disclosures Act 2022, s 16.

⁷ Protected Disclosures Act 2022, ss 30-37.

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DECLARATION

I have read, understand and accept the conditions of this Policy.

Signed (Employee)_____ Dated_____

Initials:_____



BULLYING, HARRASMENT AND DISCRIMINATION - GUIDELINES AND PROCEDURES

The following guidelines should be read in conjunction with the Council Bullying, Harassment and Discrimination Policy (2023).

These guidelines provide information on the approaches and processes to following instances of bullying, harassment, or discrimination.

You can access support from a range of sources including your manager, or Health and Safety Committee representatives or OCP Workplace support (0800 377 990), union representative, or another trusted advisor.

What to do if you observe or believe you are the target of unacceptable behaviour.

Firstly, understand the situation:

If you consider that you are being harassed, bullied or discriminated against, or believe that you have witnessed this occurring to another person, discuss the situation first with a trusted person. This helps to “sense check” that what you are experiencing or observing meets the definitions in the policy, and also helps you to decide what you would like to do about it.

Council encourages kaimahi to feel safe to report any concerns as early as possible.

Approaches

There are three approaches that kaimahi can use:

- Informal
- Formal
- External

Generally, Council encourages kaimahi to take an informal approach where the complainant believes that the situation can potentially be resolved with conversation or support. This may also be appropriate for one off events of unreasonable behaviour in the first instance. Where informal options have been, or are likely to be, unsuccessful, we recommend using a formal approach.

Council will approach the investigation of all allegations, whether raised formally or informally, with an impartial and neutral perspective. While, in the first instance, Council would like the opportunity to work together with you to resolve complaints, there may be times when it is appropriate to raise your concerns with an external agency.

Informal approach

We encourage you to use an informal approach first, where you are comfortable with this approach and where the situation can potentially be resolved without a formal investigation.

The informal approach aims to restore a productive working relationship by exploring the complainant’s concerns through conversation aligned to Council values and Code of Conduct.

At any time, kaimahi are able to seek support from their Manager, OCP etc, to support them in assessing the situation, planning the approach or response and also to gain techniques to maintain resilience and wellbeing.

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Informal approach steps

Preparation

Noting the date, time and place that events occurred and including who said or did what, will help you to recognise any pattern of behaviour and help you, and your trusted advisor or the person you contact about the complaint, to better understand the situation.

Raising your concerns

- If comfortable doing so, communicate with the person/people directly. Have a courageous conversation or write a letter or email to them. Explain the situation(s), how you feel, let them know how the behaviour has impacted on you, the outcome you are seeking, and invite their response.
- You may like to involve a support person in these informal conversations. This may be a trusted colleague, Manager, or other person of your choice, or you may wish for your trusted advisor to speak to the person on your behalf.
- Mediation can be used early on in a situation or at other times (e.g., after a formal investigation). Both parties should request and freely agree to take part in mediation.
- Mediation involves a trained and impartial mediator sitting with all parties concerned to try to get mutual understanding and a way forward. It's important that mediation creates a safe and constructive environment.
- Regardless of whether mediation takes place or not, at the end of an informal process, you and the other person(s) should both agree what an acceptable way forward looks like and what form of monitoring will take place to ensure that a resolution had occurred.

Formal approach

Where informal options have been, or are likely to be, unsuccessful, we recommend using a formal approach.

The general principles followed by Council when receiving a formal complaint are outlined below.

Take all allegations seriously and apply the principle of natural justice.

New Zealand Employment Law follows the principles of 'natural justice' and requires formal complaints (and the name of the person who made the complaint) to be put to the person being complained about. Therefore, you will need to be prepared to have your complaint provided to the person complained about.

Act promptly

Timelines are set and reports/complaints are dealt with as soon as possible after receipt.

Clearly communicate the process

Everyone involved is told what the process is.

The people involved are advised if there are delays to timelines.

Ensure non-victimisation.

The people involved, both complainant and person being complained about, are protected from victimisation.

Support the people involved.

Anyone involved can have a support person present at interviews or meetings (e.g., health and safety representative, their union, colleague, friend).

Everyone involved is told what support is available to them (e.g., OCP, union representatives etc).

Maintain privacy (confidentiality)

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Privacy is maintained for all parties involved.

Details of the matter are kept within those directly concerned and their representative or support person, and appropriate other parties, e.g., Senior Leader or line manager.

Be unbiased and fair.

People involved are treated fairly.

Appointed investigators are properly skilled for the role and any perceived or actual bias is avoided.

The investigator takes a neutral approach, ensuring both parties have a fair and full opportunity to put forward their case or response.

Decisions on how to deal with the allegation are based on the facts.

The people involved are clearly told what Council is going to do (taking into account privacy).

Formal approach steps

This is the general process, noting that this may vary from time to time, dependent on the circumstances.

Step 1

Details of the complaint must be put in writing covering, where possible:

- What the complaint is about.
- What has happened (including date(s), time(s), place(s), what was said and done, by whom and whether it was a one off or repeated event).
- How the complainant responded and the impact the behaviour had on them.
- Whether anyone else witnessed the behaviour/incident(s); and
- What the complainant would like to happen as a result of the complaint, including what would fix the situation in their view.

Step 2

The written complaint can be given to the CEO or Operations Manager. The person/s who receive formal complaints are required to forward them to the People and Capability Representative or Legal Representative for Environment Canterbury who support Council with these matters.

Step 3

Complaints will be investigated promptly, discreetly and with sensitivity.

Council will:

- Ensure that both you and the subject of the complaint are supported.
- Decide what interim measures may be needed to ensure your safety and welfare during any investigation. Interim measures may include working from home for one or both parties to the complaint, reassignment to other duties until an investigation is complete, suspension of the subject of the complaint pending the outcome of an investigation.
- Keep all parties informed about the progress of the complaint, as appropriate.

A copy of the written complaint will generally be provided to the person/s alleged to have carried out the alleged behaviour so that they have a fair opportunity to respond.

An investigation may take place prior to any disciplinary process, and this may involve an investigator independent of the decision maker being appointed.

Alternatively, Council may use the Disciplinary Policy process to put the concerns to the person whom the complaint is against immediately, where, in Council's view it considers it necessary to move straight to a disciplinary process.

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In order to protect the integrity and confidentiality of the process and the participants, no party to the alleged complaint (i.e., the complainant, the person/s alleged to have carried out the behaviour and any witnesses) should discuss any aspect of the complaint with any other worker (excluding with any support person).

Failure to observe this could lead to a disciplinary process in cases where the sharing of information is considered malicious, a breach of confidentiality or privacy, undermining to the investigation, or in any other circumstance disciplinary action may be warranted.

Step 4

On completion of the investigation the investigator will decide whether the conduct described in the complaint is likely to have occurred. Council will then decide whether it is appropriate that a disciplinary process is commenced with the person/s alleged to have carried out the harassing, discriminatory or bullying behaviour.

Where it is deemed that a formal disciplinary process is required, or this has been the method used to put the complaint to the person, the disciplinary procedures will be followed.

Dependent on the outcome of the investigation, Council may decide to use measures such as mediation, coaching, etc to help rebuild working relationships, effect behaviour or culture change.

The final decisions and actions should be reported back to the complainant(s), taking into account the privacy of the subject of the complaint.

External options

In the first instance, Council would like to be given the opportunity to work with kaimahi to resolve complaints internally, however, recognises that there may be instances where kaimahi wish to raise their concerns with an external agency as well.

Several options exist:

Police

Complaints of a criminal nature, for example physical or sexual assault or stalking, may be considered a police matter as well as an employment matter. Any instances should be reported immediately to your manager, who will seek appropriate legal advice and take appropriate steps to provide for your safety at work. Alternatively, or at the same time, and depending on the circumstances, you may wish to make a complaint directly to the Police.

Employment Relations Act – Personal Grievance

We recommend that you discuss concerns you have about harassment, bullying or discrimination with a manager before lodging a personal grievance complaint, to allow Council the opportunity to work with you to resolve the issue. Under the Employment Relations Act 2000 you have a 90-day limit within which personal grievances must be raised.

Human Rights Commission

Our recommendation is that you discuss the matter with Council first so that appropriate steps can be taken to resolve the matter before taking the matter to the Human Rights Commission.

You are able to pursue an external complaint through the Human Rights Commission process or a personal grievance under the Employment Relations Act, but the law allows you to only do one or the other.

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Withdrawing a complaint

A complainant may decide to withdraw their complaint at any stage. However, if an investigation and/or action is underway and where there is evidence of misconduct or continued risk, Council has a duty to continue to investigate or act.

What if you are accused of bullying, harassment or discriminatory behaviour?

- Council recognises that being accused of bullying, harassment or discriminatory behaviour is highly stressful and would encourage you to seek support from OCP (0800 377 990), your union, legal advisor, Citizens Advice Bureau, helplines etc.
- You should understand that Council has a duty to investigate any complaints or any suspected issues of bullying, harassment or discrimination, and that it will make no decision until in possession of full information. To this end, you should expect to have a full and fair opportunity to respond and to present any relevant information for consideration.

You should expect to be informed as soon as possible after a complaint has been received.

You should expect to be notified about:

- The details of the complaint and who made it (e.g., details of the allegations, including a copy of the written complaint).
- The process that will be followed and your rights (including the right to have a support person present at any meeting about the complaint).
- The requirement for confidentiality and non-victimisation for both you and the person who made the complaint against you.
- The possible consequences if a claim is substantiated.
- Expectations of behaviour during any investigation/disciplinary process (e.g., to remain professional, maintain confidentiality).
- Any interim measures that are proposed to be taken to ensure the safety and welfare of the complainant and yourself during any investigation. Interim measures may include, but not limited to, you and the complainant avoiding contact with each other, reassignment of yourself or the complainant to other duties until any investigation is complete, your possible suspension pending the outcome of any investigation.
- To avoid conflicts of interest, the same support person/advisor should not be the support people on both sides of a complaint nor be leading or advising the organisation with regard to process.
- The final decisions and actions should be reported back to you. You should be told what Council's processes are if you are unhappy with the final decision.

History of Changes

Date	Version	Council Adoption	Description
9/1/2023	1.0		Initial Policy
2/6/2023	2.0		Split guidelines Inclusion of Te Reo / Moriori Minor formatting changes

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Version 2/6/2023

CHATHAM ISLANDS POLICY
MANAGING CONFLICT OF INTEREST (INCLUDING GIFTS & KOHA)

EFFECTIVE DATE: [Month] 2024

POLICY OWNER: [Insert owner]

POLICY STATEMENT

To ensure Chatham Islands Council (**Council**) conducts its business in an open and impartial manner, Council's integrity must not be influenced (actual or perceived) through a conflict of interest, including through the acceptance of gifts, payment of koha, or other favours.

A conflict of interest exists where the duty or responsibility to Council could be affected by some other personal interest or duty. Where a member of staff believes they have a conflict of interest, it must be reported and documented as provided in the guidelines and procedures associated with this policy.

A conflict of interest may also extend to circumstances where staff receive a gift or favour from another organisation or individual(s). To ensure impartiality, any gift or favour accepted must follow the guidelines and procedures associated with this policy.

PURPOSE

To provide clear policy and guidelines on the managing of conflict of interests, including the giving or receiving gifts, koha or favours to/from external suppliers, clients or customers.

APPLIES TO

All employees of Council.

DEFINITIONS

A conflict of interest arises where the commitments and obligations owed by an individual member of staff to the Council are likely to be compromised or may appear to be compromised. This conflict may extend to a situation where the self-interest conflict is with a business, organisation, close family member or friend.

Conflicts of interest may be financial or non-financial or both.

Additional direction is provided in the guidelines and procedures associated with this policy including appendix one.

A gift is an item or service given without payment or heavily discounted. This may include but is not limited to: entertainment, favours, prizes, rewards, personal discounts, preferential treatment or other similar gratuities.

Koha is defined as the practice of bestowing a gift where the recipient has neither stipulated that it be given, nor has any expectation of receiving it.

Koha in cultural terms reflects giving a gift to another individual, party or group where the recipient is not obliged to provide services in exchange. Traditionally koha has taken many forms but in more recent times it has tended to be in the form of money.

Offering of Koha - see guidelines for where koha is appropriate.

Donations

Council should not be making donations to external organisations unless it has approved these donations through either an Annual Plan or Long-Term Plan.

This policy does not include:

- Gifts to employees e. g. long service, birth, family bereavement or sickness gifts.
- Hospitality expenditure.

RESPONSIBILITIES

Managers:

- Ensuring staff are aware of the policy and the guidelines accompanying it.
- Ensuring identified conflicts of interest are appropriately reported and managed, including the receipt and giving of gifts.

Staff:

- Understanding and abiding by the policy.
- Declaring any known or potential conflicts of interest.
- Following the processes set out in this policy for receiving and giving gifts.

Finance:

- Maintaining a gifts register.

Human Resources

- Assessing conflict of interest risk and identifying mitigating action if necessary (in conjunction with the Chief Executive Officer).

ADHERENCE TO POLICY

All staff shall adhere to this policy at all times.

This policy is breached if any aspect of this policy is not met, including, but not limited to, circumstances where a staff-member has a conflict of interest and does not meet the requirements of this policy.

If this policy is breached, Council may commence a disciplinary process against the staff-member concerned.

MONITORING AND REVIEW

Monitoring of this policy is the responsibility of the Chief Executive Officer and will occur every three years or earlier in response to legislation or good practice. Any suggested amendments will be referred to the policy owner.

REFERENCES

This policy should be read together with the following other policies and processes:

- Fraud, Corruption and Whistleblowing Policy
- [insert other applicable policies]

POLICY AUTHORISATION

Version	CE Approval	Date	Key Changes
1.0			New Policy.

GUIDELINES AND PROCEDURES

The following guidelines and procedures should be read in conjunction with the managing conflict of interests (including gifts) policy.

The guidelines aim to improve understanding of the processes and procedures in the circumstances a conflict of interest is identified, including circumstances where a gift is to be accepted or given.

Benefits of recording conflict details in employee personnel files

Local government organisations are often subject to intense scrutiny, particularly related to decision making. Creating a robust conflict management system acts as a safeguard for staff by protecting them against any allegation of impropriety. If properly managed, activities can usually proceed as normal whilst at the same time upholding the person's obligations to the Council, protecting the integrity and reputation of the Council and its staff.

Conversely, conflicts which are not managed effectively may jeopardise the Council's public standing and may cause serious damage to the reputation of the Council and of the individual(s) concerned.

The principles of a justified business purpose, moderate and conservative expenditure, and acting with integrity and preserving impartiality are particularly relevant when a conflict is identified, including where a gift is accepted.

A conflict-of-interest policy is intended to help ensure that when actual or potential conflicts of interest arise, Council has a process in place to identify and manage any interest.

Process of managing conflicts of interest:

The procedure associated with treating actual or perceived conflicts of interest includes:

- staff are required to recognise and disclose activities that might give rise to conflicts of interest or the perception of conflicts and to ensure that such conflicts are seen to be properly managed or avoided.
- disclosure should be made at the time the conflict first arises, or it is recognised that a conflict might be perceived.
- Where a staff member considers they may have a conflict of interest; they should discuss the situation with their manager in the first instance. Staff are to err on the side of openness and caution when deciding whether something should be disclosed. Some examples of conflicts of interest are noted in appendix one.
- After raising the issue with their manager, any identified conflict is to be documented in the employee's personnel file and the worker interests register (at appendix two). The manager is to notify the Chief Executive Officer, if appropriate, once the disclosure is complete.
- If the staff member is concerned that the Chief Executive Officer is involved in the conflict of interest, or it would otherwise be inappropriate for the Chief Executive Officer to be notified, the manager is to notify the Chair of Council's Performance, Audit and Risk Portfolio Committee (PARC).
- If the Chief Executive Officer considers they have a conflict of interest, they are to directly disclose the matter to, and notify, the Chair of PARC.
- The staff member's manager in conjunction with the staff member and relevant human resources and/or legal personnel (if required) are responsible for managing any risks associated with the conflict by identifying the appropriate action to avoid or mitigate any effects of the conflict. *Section 4- Managing conflicts of interest; Guidance for public entities-OAG.*

Process of managing

If a staff-member receives a one-off gift from a person/organisation as a result of employment with Council, the staff member may accept the gift if it does not

receipt of gifts: influence their impartiality or integrity and the value of the gift is not notable (below \$50). If the value of the gift is notable (above \$50) the staff member must seek authorisation to receive the gift and the gift must be disclosed in the gift register. For clarity, where a gift is of nominal value (below \$50) and openly distributed by suppliers (such as pens, calendars, cups) a disclosure is not required. However, where several gifts are received from the same person or entity the value of the gifts will be cumulative for the purposes of compliance with this policy.

Process of giving gifts Council staff cannot not give gifts or favours to a person who has a client relationship with Council, unless in exceptional circumstances the person/client has surpassed expectation. In such circumstances, written approval for the gift is required from the staff member's manager where gifts are up to the value of \$50, or from the CEO where gift value is in excess of \$50.

All gifts to the person/client must be recorded in the gift register.

Offering of Koha

Council's staff may need to attend pōwhiri / t'hokohokomauiāhiri and hui / huinga on local marae. They need to be aware of the correct etiquette of giving koha and when to give it.

The circumstances in which koha may be appropriate include:

Hui / Huinga / Gatherings

Invitations may be made to Council staff to attend hui / huinga. Representatives attending such hui / huinga should provide a koha to the marae hosting the gathering which assists with costs such as electricity, catering and general upkeep of the marae. The level of koha will be dependent on the importance and extent of the gathering that is being held.

Tikanga / Tikane Services

There are times when Council requests the support of kaumātua / rangata mātua or similarly qualified individuals to undertake tikanga / tikane (protocols) for a specific Council project or event. Circumstances such as pōwhiri / t'hokohokomauiāhiri (welcomes), poroporoāki (farewells), the blessing of new buildings (whakatuwhera), unveilings of signage/statues/artwork, the opening of an exhibition or similar events could require tikanga Māori / tikane Moriori to be undertaken by someone with the suitable skills and knowledge of tikanga / tikane and te reo Māori / ta rē Moriori. In such circumstances where cultural support is required, the gifting of koha is an appropriate acknowledgement of the support provided to Council.

Who gives the koha

On the marae, on most occasions the koha is given by the last manuhiri speaker, after the waiata / rongo (song) to support the final manuhiri speaker. The koha, (in an envelope), is laid down on the marae in front of the manuhiri. A host representative will pick the koha up, sometimes after a karanga or chant of gratitude has been expressed.

For visits where a formal welcome (pōwhiri / t'hokohokomauiāhiri) is not carried out, then the koha is tendered by manuhiri (visitors) at the conclusion of the meeting when their senior spokesperson delivers their concluding speech of acknowledgement prior to departure.

How much should be given?

He mea tuku i runga i te aroha

An unconditional gift

While cost is an important factor in any hui / huinga, it is not, nor was it ever, the basis on which amount of koha was determined.

At times Council will hire the use of a marae. If a pōwhiri / t'hokohokomauiāhiri takes place the attendees are encouraged to provide a personal koha. The personal koha acknowledges the tāngata whenua (people of the land) and their ability to protect the integrity of the pōwhiri / t'hokohokomauiāhiri process.

This table provides a guide when giving koha.

Occasion	Suggested amount (minimum)
Invited to attend a formal hui / huinga at a local marae. Those attending a formal hui / huinga are encouraged to provide a personal koha in addition to the existing koha that may be provided by Council.	\$200

Financial administration

Any gifts or koha from Council must be approved by the Chief Executive Officer or the Operations Manager. Purchase orders for gifts / koha will be raised in Council's finance system.

Finance staff can arrange payment promptly for unexpected occasions as long as appropriate signatories are available (senior leader level).

Further information

Inland Revenue rules - The IRD IR278 Guide to Payments and Gifts in the Māori Community.

Controller and Auditor-General – Controlling sensitive expenditure Guide for public organisations (Part 9: Other types of expenditure).

Appendix one

Additional guidance on types of conflict of interests

A conflict of interest can arise in a wide range of circumstances. The "other interest" that overlaps with the official role might be financial or non-financial. It might be professional or personal. It might be commercial or charitable. It might relate to a potential advantage or disadvantage.

It might relate to the staff-member themselves, or another person or organisation with whom they are closely associated. It might be something the member is actively involved in, or something they have no control over. It might arise from a longstanding, or something that has only just happened.

For instance, the staff-member's other interest could include, but are not limited to;

- holding another public office;
- being a current or (recent) former employee, advisor, director, or partner of another business or organisation;
- pursuing a business opportunity;
- being a member of a club, society, or association;
- having a professional or legal obligation to someone else (such as being a trustee);
- owning a beneficial interest in a trust;
- owning or occupying a piece of land;
- owning shares or some other investment or asset;
- having received a gift, hospitality, or other benefit from someone;
- owing a debt to someone;
- holding or expressing strong political or personal views that may indicate prejudice or predetermination for or against a person or issue; including any prejudice against different ages, abilities, ethnic origin, religion, gender or sexual orientation;
- an interest in a matter that results in advocating or submitting a position, particularly if different to that of the Council;
- being a relative or close friend of someone who has one of these interests, or who could otherwise be personally affected by a decision of the public entity.

The question to keep in mind is "Whether a worker's or office holder's duties or responsibilities to a public organisation could be affected, or could be perceived to be affected, by some other interest or duty that the worker or office holder may have".¹

Specific conflict of interest examples, which would require completion of the conflict-of-interest form, include, but are not limited to, where staff:

- are involved in a decision to appoint or employ a person with whom the staff member has a personal or private relationship (familial or otherwise);
- decisions about, responsibility for, or involvement in, the management of a person with whom the staff member has a personal or private relationship (familial or otherwise);
- are conducting business on behalf of Council with a person, company or organisation with whom the staff member has a personal or private relationship (familial or otherwise);
- own shares in (or are working for) particular types of organisations that have dealings with (or that are in competition with) Council;
- influencing or deliberating on a public consultation process where they or a relative have made a personal submission;
- influencing or participating in regulatory decisions (such as to grant a consent, certificate or permit) where the staff member has a private relationship or connection to the applicant, or a person or organisation that submits on the application (whether for or against);

¹ Extract from "Managing conflicts of interest: A guide for the public sector". Office of the Controller and Auditor-General, 2020.

- investigating a complaint where the worker has a personal or private relationship (familial or otherwise) with either the complainant, any witness or witnesses, or the person or entity complained about;
- accept gifts in connection with their official role; or
- influence or participate in a decision to award grants or contracts where the staff is connected to a person or organisation that submitted an application or tender.

Where a staff-member is unclear whether the relationship constitutes a conflict of interest, they should err on the side of caution and discuss the matter with their manager.

DRAFT

Appendix Two
Worker Interests Register

Date identified	Staff Member	Staff Title	Details of interest (including the Title of the Entity Involved with)	Risk Assessment (H/M/L)	Treatment	Follow up required (Y/N)	Date resolved