



GENERAL MANAGER'S REPORT

14th November 2006

GM6	CODE OF CONDUCT
	FILE: 254 AVB {Folio No. *}

SUMMARY:

To outline the Local Government Act provisions regarding councillor/staff relationships.



DESCRIPTION:

There is some confusion by both councillors and staff regarding what contact can be made between councillors and staff.

Section 440 of the Local Government Act 1993 states:

- 1) The regulations may prescribe a model code of conduct (the **model code**) applicable to councillors, members of staff of councils and delegates of councils.
- 2) Without limiting what may be included in the model code, the model code may:
 - a) relate to any conduct (whether by way of act or omission) of a councillor, member of staff or delegate in carrying out his or her functions that is likely to bring the council or holders of civic office into disrepute, and
 - b) in particular, contain provisions for or with respect to conduct specified in Schedule 6A.
- 3) A council must adopt a code of conduct (the **adopted code**) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code.
- 4) A council's adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being.

- 5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of:
 - a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and
 - b) the model code as in force for the time being, to the extent that:
 - i) the council has not adopted a code of conduct, or
 - ii) the adopted code is inconsistent with the model code, or
 - iii) the model code contains provisions or requirements not included in the adopted code.
- 6) A provision of a council's adopted code is not inconsistent with the model code merely because the provision makes a requirement of the model code more onerous for persons required to observe the requirement.
- 7) A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.
- 8) Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, but nothing in this section affects rights or liabilities arising apart from this section.

[\(Appendix G\)](#) outlines section 8 of the Model Code of Conduct which has been incorporated into Council's Code of Conduct Policy C24.1 Councillors and Staff Interaction and Provision of Information.

Section 440(5) makes it quite clear that councillors, staff and delegates must comply with the adopted Code of Conduct and not to do so is a breach of the Local Government Act 1993.

Policy C24.1 outlines that directors and managers can supply information to councillors.

Details of section 440 of the Local Government Act 1993 and section 8 of the Model Code of Conduct will be distributed to staff.

REPORT IMPLICATIONS:

- ***Environmental***

Nil

- *Social*

Nil

- *Economic (Financial)*

Nil

- *Policy or Statutory*

Council's Code of Conduct is outlined in Policy C24.8 and supporting policies.

- *General Manager's Review*

Nil

RECOMMENDATION:

That the information be noted.

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A V Burgess
GENERAL MANAGER