

QLDC Council
27 November 2014

Report for Agenda Item: 4

Department:

Legal and Regulatory

4: Probity Report – Queenstown Lakes District Council Systems and Procedures

Purpose

- 1 To describe the systems and procedures used by Queenstown Lakes District Council to ensure probity¹ of employees and to put a proposal to elected members in the performance of their duties to .

Recommendation

2 *That Council:*

- a. **Note** the content of this report as describing broadly Council's systems and procedures to ensure that probity is achieved;
- b. **Note** that the Chief Executive has adopted a sensitive expenditure policy to apply to employees and contractors (policy shown in Attachment A);
- c. **Note** that (following the evaluation of the Dunedin City Council vehicle fraud) clause 2.4.1 of the sensitive expenditure policy prohibits the disposal of property to employees where the property value exceeds \$500, unless Council provides prior approval;
- d. **Note** that the Chief Executive has adopted amendments to the:
 - i. Conflicts of Interest Policy (Attachment B setting out the amended policy);
 - ii. Privacy Policy (amended policy shown in Attachment C);
 - iii. Protected Disclosures (amended policy shown in Attachment D).
- e. **Note** that the Chief Executive has assigned a panel of officers to review and propose amendments to the Council's procurement policies and procedures for the Audit and Risk Committee's consideration, with a report to Council to follow;
- f. **Adopt** the proposed sensitive expenditure policy (to the extent it applies to elected members) as set out in Attachment A.

¹ Probity is defined as "the quality of having strong moral principles, honesty, decency, and honour"

Prepared by:



Kristy Rusher
Senior Solicitor
12/11/2014

Reviewed and Authorised by:



Adam Feeley
Chief Executive
12/11/2014

Background

- 3 The Audit and Risk Committee has considered a report on the Council's policies and procedures that relate to probity. This report is to provide Council with an overview of policies which apply to Council officers and to note amendments that have been made to those policies.
- 4 The Audit and Risk Committee has also recommended that elected members consider adopting the sensitive expenditure policy to apply to conduct of elected members. The policy is presented to Council for its consideration, and discussion of that matter commences at paragraph 31.

Comment

- 5 QLDC has a variety of policies, procedures and practices which apply to elected members and employees.
- 6 The policies that link directly to probity of Council officers are the following:

Behaviours and attitudes

- a) Staff Handbook
- b) Employee Code of Conduct
- c) Conflicts of Interest (amended 10/10/14)
- d) Gift and Hospitality Policy
- e) Protected Disclosures (amended 10/10/14)
- f) Sensitive Expenditure (adopted by Chief Executive for employees, proposed to be adopted by Council for elected members)

Decision making

- g) Delegations and Sub-delegations Register (revisions in progress)
- h) Procurement (review underway)

- 7 Each of these policies are briefly summarised below:

Staff Handbook - Organisational Attitudes and Behaviour:

- 8 The QLDC staff handbook is the core document for formally setting the expectations of attitudes and behaviours of employees. The staff handbook includes:
 - a code of conduct for employees;

- policies and procedures for managing information;
- business processes;
- health and safety procedures;
- A summary of the Protected Disclosures (Whistleblowing) Policy
- Expectations for managing professional relationships with elected members

9 The Privacy Policy also sets expectations of staff behaviour in terms of information management while performing official duties.

Code of Conduct - Awareness of staff about relationships and conflicts

10 The code of conduct is an aspect of induction training, and is issued within the handbook for employees to refer to on an ongoing basis.

11 The Code of Conduct for employees sets out the framework for the integrity and conduct of employees. Themes emphasised are that employees are expected to:

- Act with a spirit of service to the Community – carry out duties professionally, consistently and with integrity, ensuring that political neutrality is observed;
- Obey the law;
- Be accountable - avoid bringing Council into disrepute (including by way of participation in private activities);

12 On the completion of induction training, employees are required to make a written declaration that they:

- a) have read, understood and agree to comply with the staff handbook and Code of Conduct for Employees;
- b) Acknowledge they are subject to disciplinary action in the event that they breach the Code of Conduct.

How Queenstown Lakes District Council investigates allegations of misconduct

13 The Council has a disciplinary procedures policy “Discipline and Dismissal” which is followed in instances where misconduct is alleged by other employees or members of the public. That policy was adopted in December 2013. It provides for disciplinary action to be taken in cases of:

- Misconduct
- Serious Misconduct
- Poor Performance
- Failure to comply with staff manuals, codes of conduct and other policy documents.

14 The policy provides for disciplinary action which matches the seriousness of the incident and provides for the termination of employment by the Chief Executive.

The policy encourages the use of counselling and performance improvement sessions in instances not involving serious misconduct.

How Queenstown Lakes District Council identifies and manages conflicts of interest

- 15 A conflicts of interest policy was adopted by the Chief Executive in September 2013. Employees are required to complete a declaration of conflicts of interest as circumstances requiring disclosure arise.² Attached to each declaration of a conflict of interest is a plan for managing the conflict of interest specified.
- 16 Staff members are reminded periodically (usually quarterly, but it can be more frequently) of the requirement to complete the conflicts of interest register. Declarations have been made and recorded. If employees are in doubt as to whether a conflict of interest exists, the matter is to be resolved by discussion with the General Manager, Legal and Regulatory.
- 17 The conflicts of interest register is supplied to the Council's auditor on request.
- 18 Attachment B which sets out the revised policy.
- 19 An employee's departure from the agreed plan for managing a conflict of interest can be dealt with as a disciplinary matter.

How Queenstown Lakes District Council administers employees' other pecuniary interests arising in the course of employment

- 20 Council has a policy "Receiving Gifts and Hospitality" that sets out the expected behaviour for employees that are offered gifts. The disclosure of gifts offered to an employee in their official capacity is required as circumstances requiring disclosure arise. As the gift is offered to an employee because of their official position, the gift is deemed to belong to the Council and its disposal is at the discretion of the Chief Executive.
- 21 Where a gift over the value of \$20 is offered, this is required to be disclosed to an officer's manager. The manager has the discretion as to whether Council will accept it. Where the gift is accepted, it must be registered on the Gifts and Hospitality Register³.
- 22 Employees are restricted to accepting one gift per year valued at less than \$50. Gifts in excess of that single item are put in to a distribution pool and distributed amongst all staff at Christmas (or any other time determined by the Chief Executive).
- 23 Gifts of less than \$20 are not required to be disclosed, but the requirement to accept only one gift still applies.
- 24 The Gifts Register is supplied to the Council's auditor on request.

² The register of conflicts of interest is administered by the Legal and Regulatory Support Co-ordinator

³ This register is administered by the Chief Executive's Executive Assistant.

- 25 Other pecuniary interests are managed via the sensitive expenditure policy and the conflicts of interest policy.

How Queenstown Lakes District Council manages whistleblowing (protected disclosures) - applies to employees

- 26 The Council has specified the General Manager of Legal and Regulatory as the person to receive protected disclosures however the disclosure may be made to the Chief Executive in circumstances where the protected disclosure is about the General Manager of Legal and Regulatory.
- 27 Minor amendments have been made to this Policy so that it better reflects the intent of the Protected Disclosures Act 2000. The amended policy is shown in Attachment D.

Procurement Policies (review proposed) – applies to employees

- 28 The Council has a procurement policy which is spread between the residual delegations register dated 2013, and a series of policies on a variety of procurement topics:
- Application of Tender Policy to Associated Organisations
 - Infrastructure Services Consultant Procurement
 - Procurement Policy
 - Project Initiation and Approval Process
- 29 It is recommended that a review of the procurement policies is undertaken to ensure that consistent guidance is available for the full range of Council procurement methods (i.e. effective use of panel providers) and that this guidance is available in one place.

Purchasing – applies to employees

- 30 The Council has recently introduced a new purchasing system that is intended to become fully integrated into its business functions. This has introduced a series of internal purchasing controls so that purchasing practices are supervised by a designated purchase approver. The internal controls put in place match the financial delegations and sub-delegations register, and comprehensive training was provided to employees with financial delegation to advise how to comply with internal controls.

How Queenstown Lakes District Council manages sensitive expenditure – applies to employees (and is proposed to apply to elected members)

- 31 “Sensitive expenditure” is the use of public funds which could be perceived as:
- a. giving some private benefit to an individual employee or elected member that is additional to the business benefit to the entity. Travel, accommodation, and hospitality spending are examples; or
 - b. extravagant or immoderate for the public sector;

- 32 The Office of the Auditor General has set guidelines for the control of sensitive expenditure, and expects organisations to integrate those guidelines into its business systems⁴.
- 33 A new sensitive expenditure policy has been adopted by the Chief Executive (see attachment A) and it now applies to Council staff and contractors. Communication of the policy and its requirements is underway.
- 34 In recognition of the sensitivity surrounding disposal of Council assets to employees, the policy proposes that employees may not purchase items from Council in excess of a \$500 value, unless prior approval of Council has been given.
- 35 It is proposed that the sensitive expenditure policy applies to elected members to give the public confidence that all aspects of Council's activities and expenditure are managed in accordance with the guidelines issued by the Office of the Auditor General.
- 36 The policy adopted by the Chief Executive follows the Auditor General's guidelines, and has been validated by comparing it to the sensitive expenditure policy in place at Waikato Regional Council.
- 37 Following the guidelines of the Office of the Auditor General protects employees and elected members from accusations of improper conduct and is an important means of demonstrating that Council is meeting its obligation to spend public funds on the purpose for which it is collected.

Delegations and Sub-Delegations Register

- 38 This is a list of authorities held by various officers, and sets out the limits of what powers, decisions, functions and duties officers may undertake on behalf of Council or the Chief Executive. The register provides certainty that decisions are made with the proper authorisation. The Delegations register has been revised and new financial limits and protocols for transactions have been set by Council.
- 39 The review of the Sub-Delegations register is complete, with compilation nearing completion. Following compilation, the sub-delegations register will be presented for review and authorisation by the Chief Executive.

Concluding Comments

- 40 There may be consequential changes required to other policies as a result of adopting a sensitive expenditure policy and amendments to the policies proposed in this paper. A review of those policies is underway.

⁴ Controlling sensitive expenditure: Guidelines for public entities (2010) Office of the Auditor General.

Financial Implications

- 41 Existing budgets are expected to meet any cost implications of policies and undertaking policy reviews.
- 42 An investigation under the Protected Disclosures Policy may be an extensive and unplanned expense. A procedure has been agreed between the Chief Executive and the General Manager, Legal and Regulatory to ensure that funding is available and does not undermine the implementation of that policy.

Local Government Act 2002 Purpose Provisions

- 43 Strengthening the policies and procedures that support probity will contribute to public confidence in the administration of Council affairs as members of the public can be satisfied that:
- elected members and employees receive no personal profit as a result of holding their public position; and
 - decisions are based on consideration of the interests and objectives that the Council has a mandate for and of information and values properly relevant to those interests; and
 - decision-making processes are not distorted by personal interests or bias from employees.
- 44 Additionally, the appropriate management of disclosure of interests means that employees can avoid accusations of impropriety.

Council Policies

- 45 All Council policies have been considered. A comprehensive review of the policies not referred to in this report is necessary.

Consultation

- 46 There is a practice that Council's policies that have employee behavioural component are submitted to a panel of employees for evaluation⁵. All probity policies with a "people" component have been submitted to the HR Steering Committee for evaluation and the review is complete.

Publicity

- 47 No publicity is required.

Attachments

- A Sensitive Expenditure Policy;
- B Conflicts of Interest Policy;
- C Privacy Policy;
- D Protected Disclosures.

⁵ The Panel that undertakes this function is the HR Steering Committee