

<b>POLICY</b>	<b>STATUS</b>	<b>AT</b>	<b>DATE</b>	<b>DOC ID</b>
<i>Pre-Election Protocol Policy</i>	<i>Adopted</i>	<i>Ordinary Council Meeting</i>	<i>9 March 2022</i>	<i>A281696</i>



**OPOTIKI DISTRICT COUNCIL**

# **PRE-ELECTION PROTOCOL POLICY**

## **BACKGROUND**

A local authority must not promote, nor be perceived to promote the re-election prospects of a sitting member. Therefore, the use of council resources, directly or indirectly, wittingly or unwittingly, for re-election purposes is unacceptable and possibly unlawful.

## **PURPOSE**

To clarify Councils approved communications protocol for elected members during the pre-election period in an effort to pre-empt unacceptable and unlawful conduct.

## **SCOPE**

Three months prior to the local body elections being 8 July to 8 October 2022.

Use of Council communications resources.

Communication by elected members relating to Council.

## **POLICY**

Authority to authorise council communications during the pre-election period is vested solely with management.

Elected members do not have access to council communications facilities (such as stationary, postage, internet, email, telephones or those on digital devices) for campaign purposes.

Council communications, including newsletters, media releases, advertisements and regularly published columns will not feature elected members during the pre-election period.

Journalistic use of photographs or information on elected members will be discontinued for the pre-election period.

Comments attributed to elected members in their official capacities as spokespersons will, where possible, be avoided.

All comments made by elected members should be identified as personal comment unless authorised by management.

The use of staff for the purposes of information collection is limited to current issues and the day to day business of the council.

Council funded events and community activities involving elected members will be restricted to those that are absolutely necessary for Council business to continue.

Elected members are responsible for ensuring the accuracy and appropriateness of political comment during the pre-election period.

Members are collectively responsible for council decisions, for the effective operation and for the public. Politically motivated criticism of council, other members or management is not considered appropriate. Members should be conscious of the need for Council to present a professional and businesslike corporate image and actions that misrepresent or undermine Council's position are deemed inappropriate.

Management will not publicly respond to politically motivated discussion during the pre-election period.

Elected members shall not make reference to any staff member, by name or by function at any time.

Elected members are at all times subject to the requirements of confidentiality, Standing Orders and the Council's Code of Conduct. Particular attention to these requirements should be shown during the pre- election period.

## **DELEGATIONS**

Authority to authorise council communications during the pre-election period is vested solely with management.

## **RELEVANT LEGISLATION**

'The Controller and Auditor-General's Good Practice for Managing Public Communications by Local Authorities' - with particular reference to Principles 12 & 13 (see Appendix 1 below).

Local Electoral Act 2001.

Employment Relations Act.

Protected Disclosures Act.

Standing Orders and Opotiki District Council Code of Conduct.

## Appendix 1 – Office of the Controller and Auditor General ‘Good Practice for Managing Public Communications by Local Authorities’ principles 12 and 13

### Communications in a pre-election period<sup>13</sup>

#### Principle 12

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

#### 4.45

Promoting the re-election prospects of a sitting Member, directly or indirectly, wittingly or unwittingly, is not part of the proper role of a local authority.

#### 4.46

A Council would be directly promoting a Member’s re-election prospects if it allowed the member to use Council communications facilities (such as stationery, postage, internet, e-mail, or telephones) explicitly for campaign purposes.

#### 4.47

Other uses of Council communications facilities during a pre-election period may also be unacceptable. For example, allowing Members access to Council resources to communicate with constituents, even in their official capacities as members, could create a perception that the Council is helping sitting Members to promote their re-election prospects over other candidates.

#### 4.48

For this reason, we recommend that mass communications facilities such as –

- Council-funded newsletters to constituents; and
- Mayoral or Members’ columns in Council publications –

be suspended during a pre-election period.

#### 4.49

Promoting the re-election prospects of a sitting Member could also raise issues under the Local Electoral Act 2001. For example:

- Local elections must be conducted in accordance with the principles set out in section 4 of the Local Electoral Act – see Appendix 1 on page 27. The principles apply to any decision made by a Council under that Act or any other Act, subject only to the limits of practicality. A breach of the principles can give rise to an “irregularity” which could result in an election result being overturned.<sup>14</sup>
- The publication, issue, or distribution of information, and the use of electronic communications (including web site and e-mail communication), by a candidate are “electoral activities” to which the rules concerning disclosure of electoral expenses apply.

#### 4.50

“Electoral expenses”<sup>15</sup> include:

- the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and
- the cost of any printing or postage in respect of any electoral activity.

#### 4.51

A Member’s use of Council resources for electoral purposes could therefore be an “electoral

expense” which the Member would have to declare – unless it could be shown that the communication also related to Council business and was made in the candidate’s capacity as a Member.

### **Principle 13**

A Council’s communications policy should also recognise the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers’ expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.

#### 4.52

Curtailling all Council communications during a pre-election period is neither practicable nor (as far as mandatory communications, such as those required under the LGA, are concerned) possible. Routine Council business must continue. In particular:

- Some Councils publish their annual reports during the months leading up to an October election, which would include information (including photographs) about sitting Members.
- Council leaders and spokespersons need to continue to communicate matters of Council business to the public.

#### 4.53

However, care must be taken to avoid the perception, and the consequent risk of electoral irregularity, referred to in the commentary to principle 12. Two examples are:

- journalistic use of photographic material or information (see paragraph 4.42 on page 21 of the guide) that may raise the profile of a Member in the electorate should be discontinued during the pre-election period; and
- access to Council resources for Members to issue media releases, in their capacities as official spokespersons, should be limited to what is strictly necessary to communicate Council business.

#### 4.54

Even if the Council’s Communications Policy does not vest the power to authorise Council communications solely in management at normal times, it should do so exclusively during the pre-election period.