

**PROACTIVELY RELEASED BY ROTORUA LAKES COUNCIL  
BY COUNCIL RESOLUTION 16 DECEMBER 2021**

File No: FileNumber  
RDC-Number

ROTORUA LAKES COUNCIL

Mayor  
Chairperson and Members  
COUNCIL

**CODE OF CONDUCT INVESTIGATION: CR R MACPHERSON (APRIL – NOVEMBER 2021)**

**Report prepared by:** Wallace Bain, Independent Chair, Audit and Risk Committee

**Report reviewed by:** Judith Stanways, Independent Deputy Chair, Audit and Risk Committee

**Report approved by:** Oonagh Hopkins, DCE, District Leadership and Democracy

---

**1. TE PŪTAKE  
PURPOSE**

To provide an update to Council by way of the Report and Recommendations following an investigation into complaints made in relation to breaches of Council's Code of Conduct (2019-2022) (the Code) by Cr R Macpherson.

Following receipt and review of an Independently commissioned Report (the Report) which has confirmed significant breaches to the Code to have occurred, Audit and Risk Committee (the Committee) presents to Council the findings and recommendations including sanctions and remedies recommended to be imposed; additional policy actions for Council to consider; and publication of the Report and investigation costs following receipt of these by Council.

**2. HE TŪTOHUNGA  
RECOMMENDATION**

**2.1. That the report CODE OF CONDUCT INVESTIGATION: CR R MACPHERSON (APRIL – NOVEMBER 2021) be received.**

**2.2 That Council note the Audit and Risk Committee have resolved that:**

- a. **The Mayor shall provide written confirmation of the expected standards of behaviour of an elected member, along with supporting documentation including the Councillor's obligations under legislation including the Local Government Act and the Code.**
- b. **The Mayor, Chairs and Deputy Chairs undertake additional training on the Standing Orders in order to operate effectively and efficiently within a council or committee meeting as per the LGA (s16) "Members to abide by standing orders.**

- c. **The Chief Executive's obligations as a PCBU under the Health and Safety at Work Act 2015 be explored with the outcome to provide legal options to the Chief Executive to ensure a safe work place for staff, and contractors in respect of the relationships between elected members and the organisation as an employer. In addition all elected members should be educated as to their responsibility as an employer of the Chief Executive.**

**In addition the Audit and Risk Committee have recommended the following sanctions to Council to resolve:**

- 2.3 Council direct Cr Macpherson to be required to undertake a refresher course on the code of conduct of elected members. The refresher course to be offered to other elected members and delivered by Equip.**
- 2.4 Council instruct that a formal apology and retraction be provided to the community by Cr Macpherson through formal Council channels recognising the reported harm that the respective posts have caused.**
- 2.5 Council remove Cr Macpherson from the Operations and Monitoring Committee and the Strategy, Policy and Finance Committee.**
- 2.5 Council publically release this report and the Independently commissioned Report through formal Council channels on 16 December.**
- 2.6 Council publically advertise to the community the costs to the ratepayer as a result of dealing with code of conduct complaints irrespective of the type of complaint.**
- 2.7 That the minutes relating to this item be made publically available on 16 December 2021.**

### **3. TE TĀHUHU BACKGROUND**

On 14 and 15 April 2021 three (3) complaints were received from Officers and Elected Members of Rotorua Lakes Council concerning actions by Cr R Macpherson involving information shared by him through a number of Facebook posts on a platform administered by him.

These complaints were referred to the Audit and Risk Committee, as per Council's Code of Conduct process, to determine whether or not any breach of the Code had occurred. The process adopted by the Committee follows the procedure outlined in the Code, including the appointment of an Independent Review Panel (the Panel) which convened, in line with its timeline and scope, in July 2021 to interview the parties involved and to consider these complaints. It is noted that where any party was not available to be interviewed, or chose not to be interviewed, the Panel was to consider any written statements including media coverage to form the substantive record of events and background required.

The Panel provided its report to the Committee 24 August 2021 "Code of Conduct Investigation: Findings and Recommendations" concluding that the three complaints reviewed were valid and that Cr Macpherson had breached the Code particularly the guiding principles of 'Collective Responsibility', 'Integrity and Honesty', and 'Respect'.

The Committee arranged to meet to receive and consider the Report. In this time, two additional complaints were received involving Cr Macpherson. These complaints claim the dissemination of information on his Facebook posts to involve knowingly incorrect and misleading information, along with the disclosure of information noted as Confidential to and by Council.

On 15 November 2021 the Committee resolved to consider these complaints as an addendum to the initial three complaints reviewed on the basis that the behaviours demonstrated were consistent with that covered by the three open complaints. Additionally the use of social media platform, noted by Cr Macpherson as separate and independent to Council, is further refuted on the basis that confidential Council Committee discussions were shared by Cr Macpherson on that platform. The Committee notified the Panel of this extension noting no further investigation was proposed as sanctions and remedies noted were to cover this extension.

With this report and recommendations, the Committee now considers its role in this investigation to be complete with actions and remedies now referred to Council for consideration and implementation.

#### **4. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS**

The attached Confidential report of 24 August 2021 “Code of Conduct Investigation: Findings and Recommendations” provides details of discussion and options relative to the Investigation and its process.

Through this review process, recommendations have been made to Council management with regards to minor review of policy and procedure. These recommendations are not considered material in terms of dealing with these complaints but will be considered by Council management as part of its routine policy review process.

The Committee is aware of the media ramifications likely from this process and the release of the Report and considers the release to be in the best interest of the community in terms of demonstrating adherence to process and the collective responsibility required of Elected Members as defined by the Local Government Act 2002.

#### **6. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE**

The decision sought of Council is considered Significant in that it is likely to generate a high degree of interest in the community which is proposed to be managed by Council’s proactive media position and stance, including the transparency of costs associated with the investigation and report.

#### **7. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY**

The Committee is satisfied that due process has been followed in the investigation of complaints made against Cr Macpherson.

A recommendation is that the Report, currently under confidentiality, be made publicly available, along with the cost and consequence of the investigation process.

#### **8. HE WHAIWHAKAARO**

## **CONSIDERATIONS**

### **8.1 Mahere Pūtea Financial/budget considerations**

The costs associated with the investigation of these complaints is \$39,905.47 to date.

The investigation and delivery of the Report (\$24,169.47 ex GST)  
Audit and Risk Committee meetings costs (\$13,000 ex GST)  
Disbursements and administration costs (\$2,736.00 ex GST)

### **8.2 Kaupapa Here me ngā Hiraunga Whakariterite Policy and planning implications**

The decision being considered is consistent with Council's policies and plans.

### **8.3 Tūraru Risks**

There are no major risks associated with the decisions required.

Any minor risks will be dealt with as follows:

- a) Health & Safety and Wellbeing Risk: Adherence to Council's role as a PCBU including the use of any legal assistance necessary to fulfil this function;
- b) Reputational Risk: Council's media strategy delivered to ensure full and transparent disclosure of facts;

### **8.4 Te Whaimana Authority**

The decisions sought require consideration and resolution by Council.

## **9. NGĀ ĀPITI HANGA ATTACHMENTS**

Attachment 1: **"Code of Conduct Investigation: Findings and Recommendations" (24 August 2021)**