

# Selection process for appointing Code of Conduct Independent Investigators 2024

**Meeting:** Kaipara District Council  
**Date of meeting:** 28 February 2024  
**Reporting officer:** Alana Thurston, Governance Advisor

## Purpose | Ngā whāinga

To seek approval for the recruitment process intended to select Code of Conduct Independent Investigators for inclusion in the Kaipara District Council's list of such investigators.

## Executive summary | Whakarāpopototanga

A review of the current list of Code of Conduct Independent Investigators (Investigators) is important as it has not been updated since November 2019. The aim is to ensure that Investigators possess the necessary skills and expertise to handle potential cases of misconduct involving elected members.

Staff presented a proposed expression of interest process to the Council during the February Briefing. Consequently, Council can now decide to either delegate the Chief Executive to oversee the selection process, or establish a Panel of elected members along with the Chief Executive, to participate in the Code of Conduct Independent Investigator Appointment Selection Panel (Panel). Either option is designed to oversee the recruitment process and make a recommendation to Council.

Having a fit-for-purpose list of investigators strengthens Council's ability to address complaints effectively, uphold accountability, and maintain public trust in the governance process.

## Recommendation | Ngā tūtohunga

That the Kaipara District Council:

- a) Delegates the Chief Executive or their chosen delegate to oversee the recruitment and recommendation process to Council, for the appointment of members to the Code of Conduct Independent Investigators list.
- b) Notes that Council will receive the final list of recommended Code of Conduct Independent Investigators for approval at the March 2024 Meeting.

## Context | Horopaki

Under the Code of Conduct (Code) adopted by Kaipara District Council, Council is required to appoint Investigators at the beginning of each triennium, who can be engaged should a code of conduct complaint be lodged against an elected member of the Council. Council has maintained a list of Investigators accessible throughout the triennium, as resolved at the November 2022 Council meeting. The resolution agreed to retain John Laws, Paul Sill, Lynne Booker, Campbell Gourlay, Margaret Robins, and LGNZ Equip Ltd on the list.

Notably, LGNZ Equip Ltd, the former commercial arm of Local Government New Zealand (LGNZ), was part of this list. LGNZ Equip Ltd managed an inventory of code of conduct investigators with diverse skills and experiences, providing councils with the flexibility to select investigators on a case-by-case basis. However, it is important to note that LGNZ Equip Ltd no longer exists, and the service offering the inventory of investigators is no longer available.

At the November 2022 Meeting, Council also agreed to review the list and initiate an expression of interest process (EOI). Following the recent February Council Briefing, during which staff proposed the EOI process, official notification of the EOI is currently in progress. **Attachment A** provides a copy of the advertisement for the EOI.

## Discussion | Ngā kōrerorero

### Code of Conduct

The Code (**Attachment B**) sets out the standards of behaviour in a range of settings that each elected member is expected to follow. It also provides a complaints process that must be applied when an allegation of misconduct is made against an elected member.

### Complaints Process

Investigators are required to be appointed to hear an alleged case of misconduct, from a list of Investigators that has been approved by the Council. Having a range of investigators ensures that the principles of fairness, transparency, and accountability are upheld as stated in the Code.

### Appointment Process and Criteria

It is noted by Local Government New Zealand (LGNZ) that investigators should possess robust knowledge and experience spanning a broad spectrum of local government matters. They are also required to maintain neutrality and objectivity throughout proceedings, earning the trust of both the parties involved in the allegations and the wider public.

When assessing Independent Investigators, the following factors will be considered:

- Range of expertise and experience
- Location (looking not just within the district)
- Pool approach using other Northland Council investigators.

The preferred skill set for Independent Investigators would ideally include:

- **Public Sector Integrity:** Expertise in promoting and ensuring integrity within the public sector.
- **Legal and Procedural Knowledge:** Understanding of the legal framework and procedural requirements related to local government and council operations, including the ability to understand the specific Code of Conduct adopted by Council.
- **Ethical Judgment:** Upholding high ethical standards and demonstrating a strong sense of fairness and impartiality to ensure unbiased investigations and recommendations.
- **Conflict Resolution:** Skills in conflict resolution and mediation to facilitate discussions between parties involved, promoting a constructive resolution of disputes.
- **Cultural Competence / Tikanga Māori:** Cultural sensitivity and awareness, and knowledge of Tikanga Māori, ensuring a culturally informed and respectful approach.
- **Assessment and Investigative Skills:** Capability to conduct thorough and impartial investigations into alleged breaches of the Code of Conduct, employing effective fact-finding and evidence-gathering techniques.

### Proposed selection and appointment process for the Council

The recommended process began with a call for an EOI and subsequently involves a review of applicants.

Two options are suggested: either the Chief Executive assesses the candidates and presents a recommended list to Council, or a panel is formed. This panel would include the Mayor, at least two other Elected Members, and the Chief Executive or their chosen delegate. The Panel would be responsible for shortlisting candidates and presenting the final recommendation to the Council.

The actions and timeframes for the process have been outlined below:

Action	Timeframe	Status
Advertisements for candidates are published (EOI)	Thursday 15 – Monday 19 February, 2024	✓
CE or Panel to review candidate applications. Reference checks by staff begin if needed	Week of 11 March, 2024	
Recommendation made to Council on the Investigator list membership. Investigator membership and term begin	Wednesday 27 March, 2024	

## Options

The following table provides an evaluation of the available options. Based on this assessment, Option 2 is recommended due to its greater efficiency and ability to maintain an appropriate level of separation.

Option	Description	Benefits	Shortcomings
1	Appointed elected member panel (with CE) to review candidates and recommend Investigators to the Council for appointment	<ul style="list-style-type: none"> <li>Elected members are seen to be more directly accountable to the public, ensuring transparency and accountability in the selection process.</li> <li>Meets statutory requirements as instructed by the Code of Conduct.</li> </ul>	<ul style="list-style-type: none"> <li>Time-consuming for elected members who may have other priorities.</li> <li>Lacks clear separation, potentially resulting in investigators being appointed by those whom they may be tasked with investigating.</li> </ul>
2	The CE is delegated to undertake candidate review and recommend Investigators to the Council	<ul style="list-style-type: none"> <li>Relieves elected members from a day of reviewing candidates, freeing up their time for other duties.</li> <li>Maintains a clear separation to ensure that investigators are not assessed by the those whom they may be tasked with investigating.</li> <li>Meets statutory requirements as instructed by the Code of Conduct.</li> </ul>	<ul style="list-style-type: none"> <li>Elected members may not be comfortable with this approach.</li> </ul>
3	Maintain status quo	<ul style="list-style-type: none"> <li>Current list remains in operation.</li> </ul>	<ul style="list-style-type: none"> <li>Potential failure to address any existing shortcomings of current list.</li> </ul>

The recommended option is Option 2.

## Financial implications

Anticipated financial impacts are minimal, with advertising costs expected to be covered within existing budgets. While there are expenses associated with engaging an Investigator, there are no costs incurred by having them as a member on the list of Investigators.

## Risks and mitigations

No risks identified with the recommended option.

## Significance and engagement | Hirahira me ngā whakapāpā

The decisions or matters of this report are considered to have a low degree of significance in accordance with Council's Significance and Engagement Policy. No feedback is required, and the public will be informed of Council's decision via the agenda and minutes publication of this meeting, on the website and through other channels if appropriate.

## Next steps | E whaiake nei

Depending on the resolution of this item by Council either the Chief Executive (CE) will conduct a review of the applicants in early March, or the Panel will convene in early March to assess applicants and offer recommendations to Council. Final confirmation of the list of Investigators will be made during the March Council Meeting.

## Attachments | Ngā tapiritanga

	Title
A	Expression of Interest Advert for CoC Independent Investigators 2024
B	Current Kaipara District Council Code of Conduct