



# Councillors Access to Information and Interaction with Staff Policy

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<b>Responsible Officer:</b>	Director Finance and Administration
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<b>Functional Area:</b>	Finance and Administration

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## SUMMARY

The purpose of this policy is to outline the legislative requirements as well as Councils position and procedures with regard to Councillors access to information and the interaction between Councillors and staff.

It further aims to ensure that the differing roles of Councillors, the General Manager and Staff are understood and respected and that any inappropriate interactions are avoided.

### 1. Policy Principles

- 1.1. Provide clear communication channels to ensure the timely and accurate provision of information to Councillors for use in decision making;
- 1.2. Establish a documented process on how Councillors can access Councils records and interact with staff;
- 1.3. Facilitate the appropriate level of access to staff
- 1.4. Facilitate a harmonious and respectful relationship between Councillors, the Senior Executive and other staff, understanding the differing roles that they each undertake as defined in the Local Government Act.

### 2. Policy Objectives

The objectives of this Policy are to:

- 2.1. Ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of Council;
- 2.2. Ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;
- 2.3. Provide a documented process on how councillors can access Council records and information;
- 2.4. Provide direction on councillors' access to Council buildings, and
- 2.5. Provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, any breaches of this policy.

### 3. Policy Statement

#### 3.1. Access to Information

- 3.1.1. Access to a Council file, record or other document can only be provided according to this Policy to ensure that access is obtained in ways that are legal and appropriate. This Policy does not limit or restrict statutory or common law rights of access.
- 3.1.2. Councillors who have a personal (as distinct from civic) interest in a document of Council have the same right of access as any other member of the public.
- 3.1.3. Councillors are entitled to have access to Council files, records or other documents in accordance with the GIPA Act.
- 3.1.4. Councillors can request such access either in writing or by contacting Councils Executive Assistant, for access to a particular Council record.
- 3.1.5. Councillors are also entitled to have access to documents relating to a matter currently before Council.
- 3.1.6. If Councillors wish to access any documents under 3.1.5 (which are not readily available as open access documents under GIPA Act), then they must direct their request in writing to the General Manager or the appropriate Director.
- 3.1.7. The General Manager or Director to whom the request is directed shall not unreasonably decide that a document is not relevant to the performance of the Councillors' civic duty and deny access to a Council document. They must state their reasons for the decision if they refuse access.
- 3.1.8. Whenever access is sought by a Councillor to a document, the staff member to whom the request is made shall keep a record of the request (other than where the request is made for an open access document available to the public under the GIPA Act, or is made as an informal or formal request under the GIPA Act or by Notice of Motion). That request shall be registered in the corporate records system for that purpose.
- 3.1.9. Under no circumstances may Councillors remove files or any other records of Council from Council premises.
- 3.1.10. Information that is given to a particular Councillor in the pursuit of their civic duties will also be made available to any other Councillor who requests it.
- 3.1.11. Councillors must not release personal information about any third party, except within the provisions of the Privacy and Personal Information Protection Act 1998 (PPIPA). Councils Public Officer can provide advice on this where a Councillor is unsure.
- 3.1.12. Councillors shall be provided the requested information between seven (7) and twenty-one (21) days from the request. The time taken to provide the information will be dependent on the extent on the request and current workload of staff.

### 3.2. Interaction between Councillors and Council staff during meetings

3.2.1. The interaction between Councillors and staff at Council meetings and committee meetings is regulated by:

- a) s360 of the Act,
- b) cl. 249 of the Local Government (General) Regulation,
- c) Council's Code of Conduct and
- d) Council's Code of Meeting Practice.

3.2.2. Section 360 of the Act enables Council to make regulations in regard to the conduct of meetings, and the adoption of a Code of Meeting Practice that states how must be conducted.

3.2.3. Clause 249 of the *Local Government (General) Regulation* states:

*(1) A councillor:*

- (a) may, through the chairperson, put a question to another councillor, and*
- (b) may, through the general manager, put a question to a council employee.*

*(2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.*

*(3) The councillor must put every such question directly, succinctly and without argument.*

*(4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause.*

### 3.3. Interaction between Councillors and Council staff outside of meetings

3.3.1. The General Manager is responsible to Council for the performance and direction of all staff and for the day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or Committee meeting be directed to the General Manager or a Director.

3.3.2. Councillors must not attempt to direct staff as to the performance of their work. Staff must report all such attempts immediately to their Director or the General Manager.

3.3.3. Councillors must not request staff to undertake work for them or any other person, without the prior consent of the General Manager.

3.3.4. A Councillor, member of staff or delegate must not take advantage of their official position to improperly influence other Councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.

3.3.5. Reference should also be made to the inappropriate interactions noted in clause 6.7 of Council's Code of Conduct.

### **3.4. Inappropriate Interactions**

The following interactions are deemed inappropriate:

- 3.4.1. Councillors approaching members of staff for information on sensitive or controversial matters, other than a Director or the General Manager;
- 3.4.2. Members of staff approaching councillors directly on staffing or political issues;
- 3.4.3. Councillors approaching staff outside the council building or outside hours of work to discuss Council business;
- 3.4.4. Staff refusing to give information which is available to other councillors to a particular councillor because of the staff members or councillors political views;
- 3.4.5. Councillors who have a development application (DA) before the council, discussing the matter with staff in staff only areas of the Council;
- 3.4.6. Councillors entering general staff only areas with the exception of the intention to visit the office of the General Manager or Director nominated by the General Manager and as advised to councillors;
- 3.4.7. Staff being asked to answer questions or provide documents to councillors who are overbearing or threatening;
- 3.4.8. Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- 3.4.9. Staff providing advice to councillors without the recording or documenting the interaction as they would if the advice was provided to a member of the community.

### **3.5. Access to Council Offices/ Staff Areas**

- 3.5.1. As elected members of Council, Councillors are entitled to have access to the Council Chamber, Committee Room and public areas of the Council buildings.
- 3.5.2. Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- 3.5.3. A Councillor has no rights to enter staff-only areas without the express authorisation of the General Manager or by appointment with the General Manager or a Director.
- 3.5.4. Councillors must ensure that when they are within a staff-only area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence to bear on Council staff decisions. Councillors should conduct themselves accordingly.

### **3.6. Breaches of this Policy – Reporting**

- 3.6.1. Any occasions of a Councillor or staff member not complying with this Policy should be immediately reported to the General Manager (or to the Mayor if it involves the General Manager).
- 3.6.2. Where the report relates to the conduct of a Councillor, the General Manager shall immediately report the matter to the Mayor and to the next Council meeting.
- 3.6.3. Where the report relates to the conduct of staff, the General Manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.
- 3.6.4. Where a Councillor believes that the General Manager has failed to comply with the Policy, the Councillor shall immediately report the matter to the Mayor.
- 3.6.5. Before a report to Council by the General Manager (or the Mayor), the General Manager (or the Mayor) should undertake preliminary inquiries to establish the facts. The preliminary investigations may take any form the Mayor and General Manager consider appropriate, but must involve discussion with the staff member and/or Councillor involved. The staff member and/or Councillor must be made aware of the allegations against them and given a reasonable opportunity to respond to them (procedural fairness).
- 3.6.6. The Council, or a Committee of all Councillors established for the purpose, must decide whether a matter reported to it under this Policy, reveals a breach.

### **3.7. Breaches of this policy – Sanctions**

- 3.7.1. Council, having resolved that a Councillor has failed to comply with this Policy, can, by resolution:
  - a) require the Councillor to apologise to the person concerned,
  - b) request a formal apology,
  - c) counsel the Councillor,
  - d) reprimand the Councillor,
  - e) resolve to make its decision on the matter public,
  - f) pass a censure motion at a Council meeting,
  - e) make public disclosures of inappropriate conduct such as making the community aware of the breach through the media or the Annual Report,
  - g) refer the matter to an appropriate investigative body if the matter is serious, and/or;
  - h) prosecute any breach of the law.
- 3.7.2. Sanctions for staff, depending on the severity, scale and importance of the breach, may include:
  - a) counselling the staff member,
  - b) instituting Council disciplinary proceedings,
  - c) dismissal, and/or
  - d) prosecution of any breach of the law.

### **3.8. Complaints**

Complaints about the operation of this Policy may be addressed to the NSW Ombudsman or to the Office of Local Government.

## 4. Scope

This policy applies to all of Council's activities in the delivery of its functions as a Local Government authority, both at the elected member and staff levels.

## 5. Accountability, Roles and Responsibility

### 5.1. Elected Council

- Provide strategic direction and stewardship;
- Consider legislative requirements and good governance when setting policies and strategies;
- Adopt a Councillor's Access to Information and Interaction with Staff Policy.

### 5.2. General Manager and Director

- Implement the policy and oversee the compliance of staff with the Policy;
- Keeping abreast of legislative amendments and review and make recommendations for variations to the policy as required.

### 5.3. All Council Staff

- Ensure adherence to this Policy and report any breaches.

## 6. Definitions

No specific definitions are deemed required for this policy, with all terms used intended to have their everyday meanings.



## 7. Related Legislation, Standards and Guidelines

Key legislative requirements and other directions are located in the following:

- NSW Local Government Act 1993 (as amended);
- NSW Local Government (General) Regulations 2005;
- Government Information Public Access Act 2009 (GIPA);
- Privacy and Personal Information Protection Act 1998 (PPIPA);
- Health Records and Information Privacy Act 2002;
- NSW Ombudsman –Conduct and Administrative Practices, Guidelines for Councils;
- Junee Shire Council Code of Conduct;
- Junee Shire Council Code of Meeting Practice;
- All other relevant guidelines issued by the Office of Local Government.

## 8. Review Procedures

This policy is to be reviewed every four (4) years or in the first twelve months of the new term of Council, whichever is the earlier.

### Version Control and Change History

Version	Date	Modified By	Action
V1.1	19/12/17	Council	Adoption of Policy