



Title of Policy	Councillors Access to Information & Interaction with Staff		
This applies to	All Councillors and staff		
Author	Michael Boyd	Date approved:	
Position of Author	General Manager	Authorised by:	
Legislation, Australian Standards, Code of Practice	Local Government Act 1993 Local Government (General) Regulation 2005 Government Information (Public Access) Act 2009 Government Information (Public Access) Regulation 2009 Privacy and Personal Information Protection Act 1998 Health Records and Information Privacy Act 2002 State Records Act 1998		
Related Policies/Procedures	Council's Code of Conduct Council's Procedures for the Administration of the Council's Code of Conduct Council's Code of Meeting Practice		

INTRODUCTION

There often needs to be personal interaction between Councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policy making and service delivery. This has created the need for a policy that helps Councillors and staff to understand fully their respective roles and how they should operate, in order to carry out these roles effectively.

Formalising procedures to specify how these roles should be exercised should be done without trying to restrict a Councillor's legal right to access staff and information. This policy is not intended to limit any statutory and common law rights Councillors have to access information. However, Councillors should avoid any perceptions of wrongdoing when exercising their role as an elected representative, particularly the appearance of trying to improperly influence staff.

OBJECTIVES

The objectives of this policy are to:

- Document communication channels to ensure the provision of accurate information from Council records systems to Councillors, within reasonable timeframes to assist Councillors in the performance of their civic duties.
- Define appropriate professional interactions between Councillors and Council staff
- Outline Councillors rights of access to Council buildings
- Identify inappropriate interactions between Councillors and Council staff
- Outline a process for reporting breaches.

The spirit of this policy is to ensure compliance with the Local Government Act 1993 and the Government Information (Public Access) Act 2009 (GIPA) and that Councillors have the same information upon which to make decisions and to ensure that any interaction between Councillors and staff is consistent with Council's Code of Conduct.

POLICY STATEMENTS

Rights as Councillors

Councillors have a right to inspect any record of the Council provided that it is relevant to the exercising of the Councillors responsibility in his or her civic office and is not subject to privacy, confidentiality or legal restraint. As a general rule those records immediately seen as relevant to the exercising of a Councillor's responsibility of civic office are matters before a Council meeting, either currently or within the current term of the Council and/or matters known by the General Manager to come before the Council in the near future.

Councillors can request the General Manager, the Public Officer or a person nominated by the General Manager to provide access to a particular Council record.

Councillors are responsible for the safe keeping and secure disposal of Council Confidential Business Papers.

Rights as Members of the Public

Notwithstanding the rights above, Councillors also have the same general right as members of the public to inspect and take away copies of Council records and documents and are subject to the same constraints.

In this regard, the GIPA Act and Council's Access to Information Policy set out the information accessible by members of the public and whether a formal or informal application under the GIPA Act is required. Council's Publication Guide sets out the Open Access Information and other kinds of information that Council makes publicly available and/or routinely publishes on its website.

Councillors can request access to other documents of the Council either by a Notice of Motion to the Council, or a request for access to information under the GIPA Act.

Councillors who have a personal (as distinct from civic) interest in a document of Council have no less and no more rights than a member of the public regarding access to that document.

Use of Information

Reference should be made to Council's Code of Conduct which offers specific guidance to Councillors in dealing with information provided to them in the course of their civic duties.

In this regard, Councillors have a role both as a member of the governing body of the Council and as an elected person and importantly the Code recognises the difficulty for Councillors to reconcile these two areas of responsibility when dealing with Council information and documents. It notes that while it is desirable in the public interest to maintain open government, not all information available to Councillors is available to members of the public. Councillors are made privy to information of a confidential nature the disclosure of which is specifically prohibited in certain circumstances. The right of Councillors to have access to records is for the purpose of exercising the office of Councillor. It does not carry with it the right to disclose any information obtained by a Council to another person, unless it is already in the public domain. A Councillor has no authority to release documents on behalf of Council.

A Councillor shall not cause the by-passing of the GIPA Act provision by providing to a member of the public, information made available to the Councillor as an elected representative.

Council's General Manager will provide further guidance and assistance to Councillors in determining whether a document is confidential and/or not to be released.

The State Records Act 1998 requires that any records created or received by Councillors that relate to the business of Council, which are not captured by other methods, are to be registered in Council's records systems. Such records are accessible to other persons subject to the provisions of the GIPA Act, Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002.

Provision of Advice

The General Manager is responsible to the Council for the performance and direction of staff and the day to day management of the 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 someone nominated by the General Manager.

Only senior officers and managers nominated by the General Manager can provide advice to Councillors.

For all straightforward advice on administrative matters, it is recommended that Councillors put their requests for information or advice in writing, to be answered by the General Manager or appropriate senior officer. These written requests then form part of Council records and can be filed appropriately.

Staff are to document discussions and advice provided to Councillors, including by telephone, email or fax, in accordance with record keeping requirements under the State Records Act. 1998.

Inappropriate interactions

In accordance with Council's Code of Conduct, the following are some examples of inappropriate interactions:

- Councillors approaching staff and staff organisations to discuss individual or

- operational staff matters other than broader industrial policy issues
- Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than workforce industrial policy issues
- Council staff refusing to give information that is available to other Councillors to a particular Councillor
- A Councillor who has lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council
- Councillors requesting staff to undertake work for them or any other person
- Councillors being overbearing or threatening to Council staff
- Councillors making personal attacks on Council staff in a public forum
- Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make
- Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the public
- Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals
- Councilors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by the General Manager or, in the case of the Mayor, exercising their power under Section 226 of the Local Government Act 1993.

Access to Council offices

Councillors are entitled to access the Council Chamber, staff areas and public areas of the Council's administrative buildings during normal business hours and for adopted Council Meetings, Councillor Briefings and Community Committee meetings.

Councillors needing access to these and other facilities at other times must obtain authority from the General Manager.

Councillors must ensure that when they are within a staff area (normally with permission) they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

Reporting breaches

In the case of a complaint against a Councillor, this is to be reported to the Mayor and/or Council and in the case of a staff member to the General Manager, in accordance with the Council's Code of Conduct.

Where a Councillor believes that the General Manager has failed to comply with the policy, the Councillor shall immediately report to the Mayor who will engage with the General Manager and/or report to Council. Before reports are provided to Council, all aspects of the allegations must be investigated.

The Council must decide whether a matter report to it under this policy reveals a breach. The procedures set out in Council's Code of Conduct apply.