



9. GOVERNANCE

Policy 9.6

PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF

Version 3

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OBJECTIVES:

The objectives of this policy are to:

- provide clear communication channels to ensure the speedy provision of accurate information.
- provide appropriate sanctions for non-compliance.
- provide a documented process on how councillors can access Council records.
- ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the Council.
- ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner.
- provide direction on councillors' rights of access to council buildings.
- provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.

POLICY:

INAPPROPRIATE INTERACTIONS

The Council has determined that the following interactions are inappropriate:

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

STATUTORY PROVISIONS OF COUNCILLORS AND STAFF

Chapters 9 and 11 of the *Local Government Act 1993* set out the statutory roles and duties of councillors and the General Manager. The introduction to Chapter 9 states that "*each council is a statutory corporation. The councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with this Act.*" Chapter 9 includes the following provisions.

1. The governing body (s.222)

The elected representatives, called "councillors", comprise the governing body of the Council.

2. The role of the governing body (s.223)

The role of the governing body is to direct and control the affairs of the Council in accordance with this Act.

3. The role of the Mayor (s.226)

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council
- to exercise such other functions of the Council as the Council determines
- to preside at meetings of the Council
- to carry out the civic and ceremonial functions of the mayoral office.

4. The role of a Councillor as a member of the Governing Body (s.232(1))

The role of a councillor is, as a member of the governing body of the Council:

- to direct and control the affairs of the council in accordance with this Act (for example, input into preparation of council's management plan, financial plan and management structure);
- to participate in the optimum allocation of the council's resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);
- to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions; and
- to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.

5. The role of a councillor as an elected person (s.232(2))

The role of a councillor is, as an elected person:

- to represent the interests of the residents and ratepayers;
- to provide leadership and guidance to the community; and
- to facilitate communication between the community and the council.

6. The role of the General Manager (s.335(1))

The General Manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

7. The functions of the General Manager (s.335(2))

The General Manager has the following particular functions:

- to manage the Council on a day-to-day basis;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisational structure and resources approved by the Council;
- to direct and dismiss staff; and
- to implement the council's equal employment opportunity management plan.

ACCESS TO COUNCIL RECORDS BY COUNCILLORS

1. Statutory Provisions

Section 12 of the *Local Government Act 1993* provides that the council must provide access to the current version of certain council documents free of charge to all members of the public. These documents are:

- Council's code of conduct
- Council's code of meeting practice;
- annual report;
- annual financial reports;
- auditor's report;
- Operational Plan and Delivery Program;
- EEO management plan;
- the Council's land register;
- Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors;
- register of investments;
- returns of the interests of councillors, designated persons and delegates;
- business papers for council and committee meetings (but not including business paper for matters considered when a meeting is closed to the public);
- minutes of Council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public);
- the register of current declarations of disclosures of political donations to Councillors kept in accordance with Section 328A;

- the register of Councillor voting on planning matters kept in accordance with section 375A;
- minutes of Council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:
 - a) the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and
 - b) such other matters as the council or committee resolves should be made public;
- any Codes referred to in this Act;
- register of delegations;
- annual reports of bodies exercising delegated council functions;
- local policies adopted by the council concerning approvals and orders;
- records of approvals granted and decisions made on appeals concerning approvals;
- records of building certificates;
- plans of land proposed to be compulsorily acquired by the council;
- leases and licenses for use of public land classified as community land;
- plans of management for community land;
- environmental planning instruments, development control plans and plans made under s.9 AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area;
- the statement of affairs, the summary of affairs and the register of policy documents required under the Government Information Public Access Act 2009 (GIPA); and
- Directorate representatives' reports presented at a meeting of the council according to s. 33.

The Government Information Public Access Act 2009 (GIPA) also include provisions for member of the public to a general right of access to Council documents.

2. Procedures

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.

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 who have a personal (as distinct from civic) interest in a document of Council have the same rights of access as any other person.

Councillors are entitled to access to all Council files, records or other documents where that document is identified in s.12 of the Local Government Act or to a matter currently before the Council.

The General Manager shall not unreasonably decide that a document is not relevant to the performance of the councillor's civic duty and deny access to a Council document.

The General Manager must state the reason for the decision if he/she refuses access.

Councillors can request access to other documents of the Council either by a Notice of Motion to the council or a GIPA Act application with the appropriate fee.

The General Manager, public officer or a person identified by the General Manager shall keep a record of all requests by councillors for access to information (other than those listed in s.12 of the Local Government Act, the GIPA Act or by a Notice of Motion at a Council meeting). These requests must be reported regularly (at least every 6mths) to the Council.

INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

1. During Meetings

The interaction between councillors and staff at Council meetings and committee meetings is regulated by:

- s.360 of the Local Government Act;
- cl.2 9 of the Local Government (General) Regulation;
- Council's Code of Conduct and;
- Council's Code of Meeting Practice.

Section 360 of the *Local Government Act* enables the Council to make regulations in regard to the conduct of meetings, adopt codes of meeting practice and states the meetings must be conducted in accordance with the code of meeting practice.

Clause 2 9 of the *Local Government (General) Regulation* and Council's Code of Meeting Practice details how, in Council meetings, councillors can ask questions of other councillors by going through the chairperson. The regulation also details the process councillors must follow if they wish to ask a question of council staff, by going through the General Manager.

2. Outside of Meetings

The Local Government (General) Regulation (c1.2 9) makes provision for a councillor to obtain information at a council meeting, or by a Question on Notice at a Council meeting.

The General Manager is responsible to the Council for performance and direction of all staff and 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 person/s nominated by the General Manager.

Only the General Manager, Group Managers or other staff nominated by the General Manager and as advised to councillors can provide advice to councillors.

It is within the discretion of the General Manager to require councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the Council to obtain detailed or otherwise time consuming information. The General Manager must indicate in writing, the reasons for refusing a request.

For all but straightforward advice on administrative matters, councillors should put their requests for information or advice in writing to be answered by the General Manager or the appropriate senior officer. These written requests than form part of Council records and can be filed appropriately.

A senior officer has the discretion to refer any request for information to the General Manager. The senior officer must indicate to the councillor their reasons for the referral.

If a councillor is concerned about any refusal to provide information they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the councillor is still dissatisfied they should request the information by way of a Question on Notice to the Council.

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

Councillors must not request staff to undertake work for the councillor or any other person.

A councillor, member of staff or delegate must not take advantage of their official position to improperly influence other councillors, member 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.

ACCESS TO COUNCIL OFFICES

As elected members of the Council, councillors are entitled to have access to the Council Chamber, Mayor's Office and public areas of the Council's buildings.

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.

Councillors are not permitted to enter general staff only areas with the exception of where access to the office of the General Manager, or Group Managers.

Where a councillor wishes to meet with the General Manager or Group Managers, an appointment should be made wherever possible.

Where immediate access is required to the General Manager or Group Managers, a councillor should inform staff at the public reception area of their wish to meet with a member of staff and wait at that location until the arrival of the member of staff required.

The General Manager provides secretarial services through the Executive section and will instruct staff to provide secretarial support on particular matters as required.

BREACHES OF THIS POLICY

Sanctions may be applied if this Policy is breached. Sanctions may, depending on the scale or severity of the breach, include the following:

- require the councillor to apologise to the person concerned;
- request a formal apology;
- counsel the councillor;
- reprimand the councillor;
- resolve to make its decision on the matter public;
- pass a censure motion at a council ;
- make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report);
- refer the matter to an appropriate investigative body if the matter is serious; and/or
- prosecute any breach of the law.

Sanctions for staff will be imposed by the General Manager by virtue of the authority of the General Manager conferred by section 335 (2) of the Act. Sanctions may, depending on the severity, scale and importance of the breach, include:

- counselling the staff member;
- instituting council disciplinary proceedings; or
- dismissal.

1. Reporting

All occasions of a councillor or staff member not complying with this policy should be immediately reported to the General Manager.

Where the report relates to the conduct of a councillor, the General Manager shall immediately review the misconduct and determine if necessary to report to the Code of Conduct Committee.

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.

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 report the matter to the Council.

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