

Access to Council Information by Councillors & Councillor and Staff Interaction Policy

POLICY – GC-CP-415



Directorate	Executive Services	
TRIM Ref	17/50697	
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Adopted	13/06/2017	Minute No: 17/134

Policy Objective

- To provide a documented process on how Councillors can access Council records;
- To ensure Councillors have access to all documents reasonably necessary for them to exercise their statutory role as a member of the governing body of the Council;
- To ensure that Councillors receive advice from staff to help them in the performance of their civic duty in a timely and regulated manner;
- To provide direction on Councillors' rights of access to Council buildings; and
- To provide a clear and consistent framework for the reporting of and appropriate application of sanctions or breaches of this policy.

Policy Statement

This Policy aims to:

- Provide clear communication channels between Councillors and staff;
- Ensure the speedy provision of accurate information to Councillors; and
- Provide appropriate sanctions for non-compliance.

Introduction

Council's Code of Conduct provides that Councillors have a right to access information held by Council that is reasonably necessary for them to exercise the functions of civic office.

In addition to the provisions contained within Council's Code of Conduct documents for both Councillors and Staff, this policy establishes procedures by which Councillors may access Council information and staff in order to also undertake their statutory roles to exercise community leadership and represent the views of residents and ratepayers.

1. Access to Council Information by Councillors

Councillors are to comply with Council's Code of Conduct and this policy regarding access to Council records as outlined below:

- 1.1 The General Manager and Public Officer are responsible for ensuring that members of the public and Councillors can gain access to the documents available under the Government Information (Public Access) Act 2009.
- 1.2 The General Manager must provide Councillors with information sufficient to enable them to carry out their civic functions.

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- 1.3 Members of staff of Council must provide full and timely information to Councillors to enable them to carry out their civic functions in accordance with Council procedures.
- 1.4 Members of staff of Council who provide any information to a particular Councillor in the Performance of their civic duties must also make it available to any other Councillor who requests it in accordance with Council procedures.
- 1.5 If Councillors have a private (as distinct from civic) interest in a Council document, they have the same rights of access as any member of the public.

Refusal of access to documents

- 1.6 Where the General Manager and Public Officer determine to refuse access to a document sought by a Councillor, they must act reasonably. In reaching this decision, they must take into account whether or not the document sought is required for Councillors to perform their civic duty (see clause 1.2). The General Manager or Public Officer must state the reasons for the decision if access is refused.

Use of certain Council information

- 1.7 In regard to information obtained by a Councillor in their official capacity, the Councillor must:
 - (a) Only access Council information needed for Council business;
 - (b) Not use that Council information for private purposes;
 - (c) Not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for themselves, or any other person or body,
 - (d) Only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 1.8 Councillors must maintain the integrity and security of confidential documents or information in their possession, or for which they are responsible.
- 1.9 In addition to general obligations relating to the use of Council information, a Councillor must:
 - a) Protect confidential information;
 - b) Only release confidential information if they have authority to do so;
 - c) Only use confidential information for the purpose it is intended to be used;
 - d) Not use confidential information gained through their official position for the purpose of securing a private benefit for themselves or for any other person;
 - e) Not use confidential information with the intention to cause harm or detriment to Council or any other person or body
 - f) Not disclose any information discussed during a confidential session of a Council meeting.

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Personal information

1.10 When dealing with personal information a Councillor must comply with the:

- a) Privacy and Personal information Protection Act 1998;
- b) Health Records and Information Privacy Act 2002;
- c) Information Protection Principles and Health Privacy Principles;
- d) Council's Privacy Management Plan;
- e) Privacy Code of Practice for Local Government.

The Government Information (Public Access) Act (GIPA)

1.11 The Government Information (Public Access) Act (GIPA) 2009 promotes openness, Accountability and transparency of government agencies. It is designed to make government agencies more proactive in providing information to the public. This includes being proactive in providing information to Councillors.

1.12 Council is required to comply with the spirit and intent of the GIPA Act and Applicable common law and the Model Code of Conduct, so as to provide open access to the Council's documents, other than where public interest considerations against disclosure Outweigh the public interest considerations in favour of disclosure.

Procedures

1.13 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.

1.14 Councillors can request, in writing, that the General Manager or the Public Officer provide access to a particular Council record. The application shall stipulate the reason(s) that access is required. The officer may refer the request to the General Manager.

1.15 Where it is believed that significant resources will be required to respond to a request for information, the General Manager should advise the Councillor and provide details of the estimates of time and/or costs that are likely to be incurred in providing the information. An indication should also be given of what other matters will not be able to be attended to as a result of compiling the requested information.

1.16 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.

1.17 Any documents provided to one Councillor is to be provided to all Councillors for their information.

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- 1.18 Councillors are entitled to access to all Council files, records or other documents where that document is identified in Schedule 1 of the GIPA Regulation 2009 or to a matter currently before Council.
- 1.19 Councillors who have been refused access to information are entitled to lodge a formal request for information under the GIPA Act or at a meeting of Council, by notice of motion, move for the production of the document.
- 1.20 The GIPA Act provides three options to have a decision reviewed:
 - Internal review by the agency;
 - An external review by the Information Commissioner; or
 - An external review by the Administrative Decisions Tribunal (ADT).
- 1.21 Councillors can request access to other documents of the Council either by a notice of motion to the Council or a formal access application under the GIPA Act 2009.

2. Interaction between Councillors and Council staff

This Policy provides a framework for Councillors in exercising their civic duties by specifically addressing their ability to interact and receive advice from authorised staff. This Policy supports the provisions of Council's Code of Conduct.

- 2.1 In accordance with Council's Code of Conduct, Councillors, Administrators and staff are expected to conduct their interactions with each other with respect, professionalism, objectivity, honesty and to a high standard of ethical behaviour.
- 2.2 This Policy supplements the Code of Conduct and expressly nominates those Council staff (Appendix A) that Councillors may access.
- 2.3 All access to staff by Councillors, other than the General Manager, is to be authorised by the General Manager. Only those staff nominated by the General Manager can provide advice to Councillors.
- 2.4 Notwithstanding Section 2.3, Councillors may approach staff designated to support Committees, Working Groups or Friends Groups of Council and any other body in which a Councillor is a delegate of Council, for advice in relation to the activities of that Committee or body. Such staff may contact Councillors involved to advise, or seek advice, in relation to the activities of that Committee.
- 2.5 A Councillor or a member of Council staff must not take advantage of their official position to improperly influence other Councillors or members of Council staff in the performance of their civic or professional duties for the purpose of securing private benefit for themselves or another person.
- 2.6 In circumstances where staff are unsure whether or not they should provide information to, or respond to a request from a Councillor, they should refer the matter to their Director or the General Manager, or request that the Councillor make the request through the General Manager.

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3. Inappropriate interactions

- 3.1 In accordance with the provisions of Council's Code of Conduct the following interactions have been deemed inappropriate:
- a) Councillors approaching staff and staff organisations to discuss individual or operational staff;
 - b) Matters other than broader workforce policy issues;
 - c) Council staff approaching Councillors to discuss individual or operational staff matters other than broader workforce policy issues;
 - d) Councillors discussing with Council staff a development application they have lodged with Council in staff-only areas of Council
 - e) Councillors being overbearing or threatening to Council staff;
 - f) Councillors making personal attacks on Council staff in a public forum;
 - g) Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make (staff performance issues should be addressed to the General Manager);
 - h) Councillors 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.

4 Councillor Access to Council Offices

- 4.1 Subject to availability, Councillors may access the Council Chamber, and the public areas of the Council's buildings whilst undertaking their civic duties.
- 4.2 Councillors must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.
- 4.3 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.

5 Breaches of this Policy

- 5.1 The protocols governing Councillor access to information and staff interaction are incorporated in Council's Code of Conduct. Non-compliance with this Policy may be considered a breach of the Code of Conduct and will be dealt with in accordance with the Procedures for Administration of the Code of Conduct or disciplinary policies.

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Delegation of Function

General Manager

Definitions

Authorised staff: Staff nominated by the General Manager who can interact with or provide advice to Councillors.

Legislation

Local Government Act 1993

Policy History

Revision Number	Date of Adoption/Amendment	Minute Number
NEW	13/06/17	17/134