

Interaction between Councillors and Staff Policy

Policy Number: SVC -EXE-PO-020-01

Aim

The overall aim of the policy is to promote a positive working relationship between Councillors and the employees of Snowy Valleys Council.

The aim of this policy is to:

- Provide direction on interaction between Councillors and council officers, to ensure both parties receive advice to help them in the performance of their civic roles in an orderly and regulated manner.
- Provide guidelines on Councillor rights to access information, resources and premises in accordance with Council's Code of conduct and other relevant policies and legislation.
- Require adequate training of staff and councillors on the need for the policy and its requirements.
- Provide appropriate sanctions for non-compliance in accordance with Council's Code of Conduct.
- Provide a clear and consistent framework for the reporting of and appropriate application of sanctions for, breaches for this policy.
- Ensure Council complies with the spirit and intent of the *Government Information (Public Access) Act 2009*.
- Complement the Code of Meeting Practice, the Code of Conduct for Councillors and Staff and Councils Privacy Management Plan
- Facilitate a harmonious and respectful relationship between Councillors and staff, taking into account the differing roles that they are required to undertake as defined in the Act.

Legislation

Local Government Act 1993

Local Government (General) Regulation 2005

Government Information (Public Access) Act 2009

Privacy and Personal Information Protection Act 1998

Scope

This Policy applies to all elected representatives (comprising all Councillors and the Mayor) in their interactions with Council employees, service providers and contractors. This policy is to be applied wherever and whenever interactions occur, whether onsite at Council facilities or external to Council facilities, during or outside hours of work.

This policy applies to all Council staff and contractors.

Overview

Based on the provisions of the Local Government Act 1993, Councillors and staff have very distinct but complementary roles to perform in the effective operation of the Council. In order to perform these roles there needs to be a respectful understanding and appreciation of the rights and responsibilities of both parties.

The Council is responsible for the strategic direction and for determining the policy framework of Council. The Council also has a statutory role as the consent authority, under both the Environmental Planning and Assessment Act and the Local Government Act, for applications for development consent and local approvals.

The General Manager with the senior officers of the Council are responsible for the effective management of the organisation and the carrying out of Council's policies and strategic objectives.

Councillors should not become involved in the day to day management of the Council and Council staff should not become involved in the political processes of the Council.

However, the distinction between these two roles may be unclear. There often needs to be personal interaction between councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policymaking and service delivery. This has created the need for guidelines that help councillors and staff to understand fully their respective roles and how they should operate, in order to perform their job effectively.

POLICY STATEMENT

Interaction between Council Officials

Obligations of Councillors

The Councillors are the governing body of the Council. The governing body has the responsibility of directing and controlling the affairs of the Council in accordance with the *Local Government Act 1993* (The Act) and is responsible for policy determinations.

No provision in this policy will afford any Councillor preferential treatment in the provision of any Council service when the Councillor is acting outside their civic role and in their capacity as a private individual. They shall not receive favourable treatment for themselves or any other person.

Councillors must not:

- (a) Direct, instruct, or rebuke Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of Council or committee resolution as per section 352 of the Act, or by the Mayor exercising their power under section 226 of the Act. While the role of Council is to determine policy and strategies, that is what will be done; it is not the role of Council nor individual Councillors to determine how things will be done.

Policy-making does not infer instructing the General Manager or staff in their day to day responsibilities. It should be noted that the General Manager does not report to the Mayor, but to the Council.

- (b) in any public or private forum, direct or influence or attempt to direct or influence, any other member Council staff or a delegate of Council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*),
- (c) contact a member of the staff of the Council below the level of Director on Council related business unless specifically authorised by the General Manager,

- (d) Expect or request a waiver of standard process in their dealings with staff; or
- (e) contact or issue instructions to any of council's contractors or tenderers, including Council's legal advisers, unless by the Mayor exercising their power under section 226 of the Act. This does not apply to Council's external auditors who, in the course of their work, may be provided with information by individual Councillors.

Obligations of staff

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

Members of staff of Council must:

- give their attention to the business of Council while on duty,
- ensure that their work is carried out efficiently, economically and effectively,
- carry out lawful directions given by any person having authority to give such directions, and
- give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them.

Obligations during meetings

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

- s.360 of the *Local Government Act 1993*;
- cl.249 of the *Local Government (General) Regulation 2005*;
- Council's Code of Conduct and;
- Council's Code of Meeting Practice.

Section 360 of the 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 249 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.

You must show respect to the chair, other Council officials and any members of the public present during council and committee meetings or other formal proceedings of the Council.

Obligations outside meetings

Councillors will at times need to interact with staff as a customer of Council. On these occasions, it is appropriate that the Councillor will interact, as any other member of the public, with Customer Service Staff and/or other frontline staff.

However, when acting in their role as a Councillor and outside of Council meetings, the following general provisions apply to interactions between Councillors and Council staff:

- a. The General Manager, under Section 335 of the Act, is responsible to Council for the performance and direction of all staff and day-to-day management of Council.
- b. All requests for information and approaches to staff outside of a Council meeting must be directed to the General Manager or relevant Director or officers nominated by the General Manager as authorised to deal with requests of that nature, as follows:

Matter	Description of matters	Designated Contact Officer(s)
Verbal queries of a simple nature	Queries relating to matters regarding Council's operations which require a verbal response	General Manager Directors
IT Support	Support for IT equipment provided by Council	IT Team Leader
Agendas	Availability of and access to Council and Committee business papers	Director Internal Services
Expense Claims	Claims for reimbursement of expenses associated with Councillor's official business.	Director of Internal Services Division Manager Finance/ IT
Training and Conferences	Following appointment of delegates by resolution of Council, provision of information relating to training and conference, including workshops	Director Internal Services
Placing an item on the Council or Committee meeting agenda	<p>Councillors can add one of the following to a Council or Committee meeting agenda:</p> <ul style="list-style-type: none"> • Mayoral Minute • Councillor Report • Notice of Motion • Question with Notice <p>Please refer to Council's Code of Meeting Practice to obtain time provisions regarding adding the above items to a meeting agenda</p>	<p><i>Mayoral Minute:</i> Mayor or the General Manager</p> <p><i>Councillor Report:</i> General Manager, or relevant Director</p> <p><i>Notice of Motion:</i> General Manager, or relevant Director</p> <p><i>Question with Notice:</i> Councillor may raise at a Standing Committee meeting or advise General Manager or relevant Director.</p>
Media	<p>Managing communication between the Council and print and broadcast media.</p> <p>Assistance in preparing media releases and media interviews</p>	General Manager
Service Requests	Service request on operational matters such as barking dogs, pot holes, tree pruning etc.	Council's Customer Service Officers

Only the General Manager, Directors and those officers nominated in the table above may interact with Councillors without formal approval of a specific request.

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 some other person.

Appropriate interactions

In prescribing the following appropriate interactions, Council prefers behaviours which support Council's values and create:

- A supportive workplace;
- A safe and trusting workplace;
- A cooperative team approach.

The following interactions are considered appropriate under this policy:

- ✓ Councillors and staff promoting a positive supportive workplace in all dealings with each other;
- ✓ Councillors accessing staff and Council records through the provisions of this policy;
- ✓ Councillors behaving courteously at all times when dealing with staff;
- ✓ Staff behaving courteously at all times when providing advice or information to Councillors;
- ✓ Staff making available to all Councillors, upon request, information that had been provided to one or more Councillors;
- ✓ Councillors and staff ensuring that decisions and advice between them are accurately recorded and such records retained;
- ✓ Councillors who have, in their private capacity, an application before Council, meeting with staff in relation to their application, such meetings having been approved and arranged according to the provisions of this policy;
- ✓ Staff approaching Councillors in relation to the Councillor's private business with Council according to Councils normal operating standards which are used for all customers with the same business;
- ✓ Councillors contacting Council's customer service officers for standard works (service) requests in the same manner as a private individual.

Inappropriate interactions

You must not engage in any of the following inappropriate interactions:

- × Councillors approaching staff below Director level, other than assigned Council Committee representatives, for information on any matter without the express authority of the General Manager;
- × Councillors approaching staff and staff organisations to discuss individual staff matters and not broader industrial policy issues;
- × Council staff approaching Councillors to discuss individual staff matters and not broader industrial policy issues;
- × Council staff refusing to give information that is available to other Councillors to a particular Councillor;
- × Councillors who have lodged a development application with Council, discussing the matter with Council staff in staff only areas of the Council;
- × 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 community;
- × Council staff meeting with developers alone AND outside office hours to discuss development applications or proposals
- × Councillors making threatening or derogatory comments about other Councillors or staff;
- × Staff making threatening or derogatory comments about other staff or Councillors;
- × Staff approaching Councillors directly on staffing or political issues;
- × Staff giving preferential service or acting improperly or partially to one of more Councillors or staff; and
- × 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 Council's General Manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

It is not appropriate that staff and staff organisations have discussions with Councillors in relation to matters concerning high level industrial policy.

Access to and use of information, resources and premises

Rights of access to information

Councillors have the same general right as members of the public to inspect and take away copies of records and documents and are subject to the same constraints.

Council's Publication Guide details the information available and the process on how to obtain Council information.

Access to information

Councillors have a right to inspect any record of the Council provided that it is relevant to the exercising of their Councillor responsibilities in civic office and is not subject to privacy, confidentiality or legal restraint. This right does not extend to matters about which a Councillor is merely curious. The statutory role and duties of Mayor, Councillors and the General Manager are outlined in Sections, 222, 223, 226, 232 and 335 of the Act.

A Councillor has no greater right than a member of the public to the information held in the records of the Council except for information held for the purposes of decision making of a matter before them and then only a sufficiency of information to enable Councillors to make an informed decision.

Each request will be treated on its merits but as a general rule those records immediately seen as relevant to the exercising of a Council'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 Council in the near future.

The completion of a formal access application form under the *Government Information (Public Access) Act 2009* (GIPA Act) will be required for information concerning a third party(s), and may be required where a large amount of documentation or research will be required to satisfy the request.

When making a request for information, Councillors should draft the request carefully and should precisely detail the information, or the nature of the information, sought. It is expected that Councillors will act reasonably in making a request for information and consider the appropriateness of the level of detail requested.

Councillors may also request access to other documents of the Council by a Notice of Motion to the Council.

When dealing with a request by a Councillor for information, the General Manager must act reasonably. Given that a Councillor may need information to perform their public duty, if a request is to be denied, reasons for the refusal will be provided in writing.

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.

Councillors who have a personal or pecuniary interest in a document of Council have the same rights of access as any other person as stipulated by the Code of Conduct under the section 'Personal dealings with Council'.

There may be occasions where the release of personal information or information identifying a person would be contrary to the *Privacy and Personal Information Protection Act 1998*. The

General Manager will act in accordance with the relevant law when providing information to Councillors.

Council staff who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor, upon request, and in accordance with Council procedures.

Councillors have an obligation to properly examine and understand all the information provided to them relating to matters that they are dealing with in their official capacity to enable them to make a decision on the matter in accordance with Council's charter under the Act.

Councillors who have been refused access to information by the General Manager are also entitled to lodge a request under the GIPA Act, as a general member of the public, which will be assessed by Council's Right to Information Officer. The GIPA Act also provides three options to have a decision reviewed: an internal review by the agency (in this case, the council); an external review by the Information Commissioner; or external review by the Administrative Decision Tribunal.

A record of all requests by Councillors for access to Council information will be retained in Council's Corporate Records system.

Use of information by Councillors

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.

It recognises that Councillors have a role both as a member of the governing body of the Council and as an elected person and importantly it recognises the difficulty for Councillors to reconcile the two areas of responsibility when dealing with Council information and documents. 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 and only released if they have specific authority to do so.

Councillors must only use confidential information for the purpose it is intended to be used and must not disclose any information discussed during a confidential session of a Council meeting.

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 Councillor to another person, unless it is already in the public domain. A Councillor has no authority to release documents on behalf of Council.

The Mayor shall not cause the by-passing of GIPA Act provisions by providing to a member of the public information made available to Councillors as an elected representative.

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

Use of Council resources

Access to and use of Council Resources is determined by Council's Payment of Expenses & the Provision of Facilities for Mayor & Councillors Policy.

Access to Council premises

Councillors, as elected members of the Council, are entitled to have access to the Council Meeting Room, Mayor's Office and public areas of 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.

A Councillor has the right to enter staff-only areas with the express authorisation of the General Manager, Director, or by resolution of Council.

Councillors must ensure that when they are within a staff-only area they are cognizant 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.

This section should be read in conjunction with Council's Code of Conduct.

Reporting Breaches

Councillors and staff are responsible for ensuring that any breaches of this policy are reported to the General Manager immediately.

All occasions of a Councillor and Council officer not complying with this policy should be immediately reported to the General Manager. The General Manager is responsible for immediately reporting the matter to the Mayor.

As this policy is aligned with Council's Code of Conduct, breaches of this policy will be handled in accordance with the Code.

Responsibilities

Councillors and staff are required to initially commit to this Policy.

General Manager

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 and is responsible for implementing and ensuring adherence to this policy.

Employees

Employees of Council;

- Give their attention to the business of council while on duty
- Ensure that their work is carried out efficiently, economically and effectively
- Carry out lawful directions given by any person having authority to give such directions
- Give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them.

Contact Officer: General Manager
 Public Officer

Associated Documents

External - Local Government Act 1993
 Local Government (General) Regulation 2005
 Government Information (Public Access) Act 2009
 Privacy and Personal Information Protection Act 1998
 ICAC – Key issues for Local Government Publication
 Good Conduct & Administration Practice – Guidelines for Local Government

Internal - Code of Conduct
 Code of Meeting Practice
 Publication Guide
 Privacy Management Plan
 Access to Information Policy
 Payment of Expenses & the Provision of Facilities for Mayor & Councillors
 Policy

Superseding Policy No. and Title:

Interaction between Councillors and Staff Policy Gov.22 – Former Tumut Shire Council
 Provision of Information and the interaction between Councillors and Staff Policy TSC-EXE-PO-066-02 – Former Tumbarumba Shire Council

Policy prepared by: Governance Support Officer

History table:

Version Control No	Development /Amendment Date	Approval Date	Resolution Number	Activity log
0	14/7/2017			Prepared by Governance Support Officer
0		24/08/2017	M134/17	Ordinary Council Meeting