

1.01 COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

1 POLICY PURPOSE

The Councillor Access to Information and Staff Interaction Policy (the Policy) provides a framework for councillors when exercising their civic functions by specifically addressing their ability to interact with, and receive advice from, authorised staff.

The Policy complements and should be read in conjunction with Council's Model Code of Conduct.

The aim of the Policy is to facilitate a positive working relationship between councillors, as the community's elected representatives, and staff, who are employed to administer the operations of Council. The Policy provides direction on interactions between councillors and staff to assist both parties in carrying out their day-to-day duties professionally, ethically and respectfully.

It is important to have an effective working relationship that recognises the important but differing contribution both councillors and staff bring to their complementary roles.

2 POLICY OBJECTIVE

The objectives of this policy are to:

- Establish positive, effective and professional working relationships between councillors and staff defined by mutual respect and courtesy;
- Enable councillors and staff to work together appropriately and effectively to support each other in their respective roles;
- Ensure that councillors receive advice in an orderly, courteous and appropriate manner to assist them in the performance of their civic duties;
- Ensure councillors have adequate access to information to exercise their statutory roles;
- Provide direction on, and guide councillor interactions with, staff for both obtaining information and in general situations;
- Maintain transparent decision making and good governance arrangements;
- Ensure the reputation of Council is enhanced by councillors and staff interacting consistently, professionally and positively in their day-to-day duties; and
- Reference a clear and consistent framework through which breaches of this policy will be managed and reported in accordance with Council's Model Code of Conduct.

3 POLICY SCOPE

The policy applies to all Councillors and Council staff and specifically:

- All interactions between councillors and staff, whether face-to-face, online (including social media and virtual meeting platforms), by phone, text message or in writing.
- Whenever interactions between councillors and staff occur, including inside or outside of work hours, and at both council and non-council venues and events.

This Policy does not confer any delegated authority upon any person. All delegations to staff are made by the General Manager.

The Model Code of Conduct provides that council officials must not conduct themselves in a manner that is contrary to the Council’s policies. A breach of this Policy will be considered a breach of the Model Code of Conduct.

4 DEFINITIONS

TERM	DEFINITION
Council	Norfolk Island Regional Council.
Councillors	Councillors refer to all elected representatives of the Norfolk Island Regional Council.
General Manager	A person who holds an appointment under section 334 of the <i>Local Government Act 1993 (NSW) (NI)</i> . This includes a person acting in this position.
Local Government Act 1993 (NSW)(NI)	Local Government Act 1993 (NSW)(NI) defines the governing body (S222) and its role (S223), together with defining the responsibilities of Councillors (including the Mayor) as members of a governing body (S232) but also as an individual and an elected representative of the community (S232). The additional duties of the Mayor’s role are also defined (S226).
Staff	For the purposes of this policy includes employees and delegates such as agency staff and contractors.

5 LEGAL AND POLICY FRAMEWORK

Legislation, Policies and Documents:

Legislation:

- *Local Government Act 1993 (NSW) (NI)*
- *Local Government (General) Regulation 2005 (NSW)(NI)*
- *Freedom of Information Act 1982 (Cth)*
- *Archives Act 1983 (Cth)*

Documents:

- Councillor Handbook
- Norfolk Island Regional Council Model Code of Conduct
- Procedures for the Administration of the Model Code of Conduct
- Norfolk Island Regional Council Model Code of Meeting Practice
- Councillor Access to Information and Interaction with Staff Procedure

6 IMPLEMENTATION

Communication

This policy and related documents are to be communicated to all Councillors, staff members and the community via Council's external website and intranet. Each Councillor will also be provided with a hard copy of this policy as part of the new Council induction program, and on request, with a single hard copy also kept in the Council Chamber for reference. A hard copy of this Policy is to also be displayed at all appropriate Council work sites.

Implementation

Implementation of this policy is in accordance with the Councillor Access to Information and Interaction with Staff Procedure.

7 POLICY STATEMENT

7.1 Councillor & Staff Interaction

7.1.1 Obligations of Councillors

Councillors are members of the Council's governing body, which is responsible for directing and controlling the affairs of the Council in accordance with the *Local Government Act 1993* (NSW) (NI). Councillors need to accept that:

- Responses to requests for information from councillors may take time and consultation to prepare and be approved prior to responding;
- Staff are not accountable to them individually;
- They must not direct staff except by giving appropriate direction to the General Manager by way of a council or committee resolution, or by the mayor exercising their functions under section 226 of the *Local Government Act 1993* (NSW) (NI);
- They must not, in any public or private forum, direct or influence, or attempt to direct or influence, a member of staff in the exercise of their functions;
- They must not contact a member of staff on council-related business unless in accordance with this Policy; and
- They must not use their position to attempt to receive favourable treatment for themselves or others.

7.1.2 Obligations of Council Staff

The General Manager is responsible for the efficient and effective day-to-day operation of the Council and for ensuring that the lawful decisions of the Council are implemented without undue delay. Council staff must ensure that:

- They are not accountable to individual councillors and do not take direction from them. They are accountable to the General Manager, who is in turn accountable to the Council's governing body;
- They should not provide advice to councillors unless it has been approved by the General Manager or a staff member with a delegation to approve advice to councillors;
- They must carry out reasonable and lawful directions given by any person having the authority to give such directions in an efficient and effective manner;
- They must ensure that participation in political activities outside the service of the Council does not interfere with the performance of their official duties; and
- They must provide full and timely information to councillors sufficient to enable them to exercise their civic functions in accordance with this Policy.

7.1.3 Councillor Access to Staff

Councillors may directly contact members of staff that are listed in Schedule 1 of this Policy. The General Manager may amend this list at any time and will advise councillors promptly of any changes.

Councillors can contact staff listed in Schedule 1 about matters that relate to the staff member's area of responsibility. Councillors should as far as practicable, only contact staff during normal business hours. If councillors would like to contact a member of staff not listed in Schedule 1, they must receive prior permission from the General Manager.

If a councillor is unsure which authorised staff member can help with their enquiry, they can contact the General Manager who will provide advice about which authorised staff member to contact.

The General Manager or a member of the Council's management team may direct any staff member to contact councillors to provide specific information or clarification relating to a specific matter.

A councillor or member of staff must not take advantage of their official position to improperly influence other councillors or members of staff in the performance of their civic or professional duties for the purposes of securing a private benefit for themselves or for another person. Such conduct should be immediately reported to the General Manager in the first instance or Mayor (if the conduct relates to the General Manager).

7.1.4 Councillor and Staff Obligations During Meetings

Respect must be shown to the Chair, other Council officials and any members of the public present during Council and Committee Meetings or other formal proceedings of Council. The interaction between Councillors and staff at Council meetings and Committee meetings is regulated by:

- Section 360 of the *Local Government Act 1993* (NSW) (NI);
- Council's Code of Conduct; and
- Council's Code of Meeting Practice.

Section 360 of the *Local Government Act 1993* (NSW) (NI), enables Council to make regulations in regard to the conduct of meetings, adopt codes of meeting practice and states that meetings must be conducted in accordance with the Code of Meeting Practice.

7.1.5 Appropriate Interactions

Examples of appropriate interactions between councillors and staff include, but are not limited to, the following:

- Councillors and council staff are courteous and display a positive and professional attitude towards one another;
- Council staff ensure that information necessary for councillors to exercise their civic functions is made equally available to all councillors, in accordance with this Policy and any other relevant Council policies;
- Council staff record the advice they give to councillors in the same way they would if it was provided to members of the public;
- Council staff, including Council's management team members, document councillor requests via the councillor request process;
- Council meetings and councillor briefings are used to establish positive working relationships and help councillors to gain an understanding of the complex issues related to their civic duties;
- Councillors and council staff feel supported when seeking and providing clarification about council related business; and

- Councillors forward requests through the councillor request process and staff respond in accordance with the timeframes stipulated in this Policy.

7.1.6 Inappropriate Interactions

Examples of inappropriate interactions between councillors and staff include, but are not limited to, the following:

- Councillors and council staff conducting themselves in a manner which:
- is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety; and
- constitutes harassment and/or bullying within the meaning of the Model Code of Conduct, or is unlawfully discriminatory.
- Councillors approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters;
- Staff approaching councillors to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters;
- Staff refusing to give information that is available to other councillors to a particular councillor (unless the General Manager has previously refused access to the information requested by a Councillor);
- Councillors who have lodged an application with the council, discussing the matter with staff in staff-only areas of council;
- Councillors being overbearing or threatening to staff;
- Staff being overbearing or threatening to councillors;
- Councillors making personal attacks on staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in the Model Code of Conduct in public forums including social media;
- Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- 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.

Where a councillor engages in conduct that, in the opinion of the General Manager, puts the health, safety or welfare of staff at risk, the General Manager may restrict the councillor's access to staff. Any concerns relating to the conduct of staff under this Policy should be raised with the General Manager.

7.2 Access to and use of Information, Resources and Premises

7.2.1 Rights of Access to Information

Councillors have a right to request information provided it is relevant to councillor's exercise of their civic functions. This right does not extend to matters about which a councillor is merely curious.

Councillors do not have a right to request information about matters that they are prevented from participating in decision-making on because of a conflict of interest, unless the information is otherwise publicly available.

The General Manager may identify Council support staff under this Policy for the management of requests from councillors.

7.2.2 Access to Information

Councillors can use the councillor request process to:

- Request information or ask questions that relate to the strategic position, performance or operation of Council.
- Bring concerns that have been raised by members of the public to the attention of staff.
- Request ICT or other support from Council.
- Request that a staff member be present at a meeting (other than a meeting of the council) for the purpose of providing advice to the meeting.

Councillors must, to the best of their knowledge, be specific about what information they are requesting, and make their requests respectfully. Where a councillor's request lacks specificity, the General Manager or staff member authorised to manage the matter is entitled to ask the councillor to clarify their request and the reason(s) why they are seeking the information.

Staff must make every reasonable effort to assist councillors with their requests and do so in a respectful manner.

The General Manager or the staff member authorised to manage a councillor request will provide a response within 10 working days unless the request made is of an urgent nature. Where a response cannot be provided within that timeframe, the councillor will be advised, and the information will be provided as soon as practicable.

Requests for a staff member to be present at a meeting must be made 10 working days before the meeting. The General Manager, or members of staff that are listed at Schedule 1 of this Policy, are responsible for determining:

- whether a staff member can attend the meeting; and
- which staff member will attend the meeting.

Staff members who attend such meetings must be appropriately senior and be subject matter experts on the issues to be discussed at the meeting.

Councillors are required to treat all information provided by staff appropriately and to observe any confidentiality requirements. Staff will inform councillors of any confidentiality requirements for information they provide so councillors can handle the information appropriately. Where a councillor is unsure of confidentiality requirements, they should contact the General Manager, or the staff member authorised to manage their request.

The General Manager may refuse access to information requested by a councillor if:

- The information is not necessary for the performance of the councillor's civic functions, or
- If responding to the request would, in the General Manager's opinion, result in an unreasonable diversion of staff time and resources, or
- The councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it, or
- The General Manager is prevented by law from disclosing the information.

Where the General Manager refuses to provide information requested by a councillor, they must act reasonably. The General Manager must advise a councillor in writing of their reasons for refusing access to the information requested.

Where a councillor's request for information is refused by the General Manager on any of the grounds referred to above, the councillor may instead request the information through a resolution of the council by way of a notice of motion. This clause does not apply where the General Manager refuses a councillor's request for information where the councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it, or the General Manager is prevented by law from disclosing the information.

Where an information request has been refused by the General Manager, nothing prevents a councillor from requesting the information in accordance with the *Freedom of Information Act 1982* (Cth).

Where a councillor persistently makes requests for information which, in the General Manager's opinion, result in a significant and unreasonable diversion of staff time and resources the council may, on the advice of the General Manager, resolve to limit the number of requests the councillor may make.

Councillor requests are official records and must be managed in accordance with the *Archives Act 1983* (Cth) and *Freedom of Information Act 1982* (Cth).

7.2.3 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 official duties.

It notes that while it is desirable in the public interest to maintain a system of open and transparent 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 information is for the purpose of exercising the office of a Councillor. It does not carry with it the right to disclose any information obtained to a third party unless it is already in the public domain. A Councillor has no authority to release documents on behalf of Council.

Councillors shall not cause the by-passing Freedom of Information Act 1982 provisions by providing to a member of the public information made available to Councillors as an elected representative.

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

Councillor requests for copies of documents for the use by organisations and /or the general community do not constitute a request for information. The copying of documents is for Council functions only such as Advisory Committees, Council briefings and Council Business Agendas. The General Manager will make copies of documents relating to the Integrated Planning and Reporting Framework to Commonwealth Officials as required. The general community have access to Council's documents via the web-site or following a Freedom of Information Application.

7.2.4 Access to Council Facilities

Councillors are entitled to have access to the Council chamber, Mayor's office, Councillor's office, and public areas of Council's buildings and facilities during normal business hours. Councillors needing access to these facilities at other times must first obtain approval from the General Manager.

Councillors who are not conducting their official duties have the same rights of access to Council buildings and facilities as any other member of the public.

The Mayor and Councillors must not enter 'staff only' areas without the approval of the General Manager. Councillors must ensure that when they are within a 'staff only' area they refrain from conduct that could be perceived to improperly influence Council staff decisions.

8 MONITORING AND REPORTING

8.1 Reporting Breaches of this Policy

Where an instance occurs where a Councillor or staff member does not comply with this Policy it should be immediately reported to the General Manager. Reports relating to the General Manager should be made directly to the Mayor.

Where the report, other than a report relating to a breach of the Code of Conduct, relates to the conduct of a Councillor, the General Manager shall immediately report the matter to the Mayor.

Where the report, other than a report relating to a breach of the Code of Conduct, relates to the conduct of a staff member, the General Manager shall deal with the matter according to the terms and conditions of employment of the staff member or contractual arrangements in place in the case of agency staff or contractors.

9 REVIEW AND VERSION CONTROL

Policy Number:	1.01	Responsible Officer:	General Manager
Next Review Date:	June 2024		
Version:	Resolution Number:	Effective Date:	Description:
1.0	14/16	20 July 2016	Developed and adopted
2.0	2017/215	20 December 2017	Reviewed and adopted
3.0	2023/56	07 June 2023	Reviewed and adopted

Schedule 1 - Authorised Staff Contacts for Councillors

This Policy provides that councillors may directly contact members of staff that are listed below. The General Manager may amend this list at any time.

Councillors can contact staff listed below about matters that relate to the staff member's area of responsibility.

Councillors should as far as practicable, only contact staff during normal business hours.

If councillors would like to contact a member of staff not listed below, they must receive prior permission from the General Manager or their delegate.

If a councillor is unsure which authorised staff member can help with their enquiry, they can contact the General Manager who will provide advice about which authorised staff member to contact.

In some instances, the General Manager or a member of the Council's management team may direct a council staff member to contact councillors to provide information or clarification relating to a specific matter.

Position
General Manager
Manager Corporate and Finance
Manager Economic Development
Manager Planning and Environment
Manager Customer Services
Manager Infrastructure Services
Governance Coordinator