

COUNCILLORS ACCESS TO INFORMATION AND THEIR INTERACTION WITH STAFF

ST019

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OBJECTIVES

- 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 duty
- To define appropriate professional interactions between Councillors and Council staff
- To outline Councillors' rights of access to Council buildings
- To identify inappropriate interactions between Councillors and Council staff
- To outline a process for reporting breaches.

The purpose of this policy is to outline compliance with the Local Government Act 1993 and the Government Information (Public Access) Act 2009, 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.

APPLICABILITY

To Councillors when requesting information and to staff when providing information.

The Code of Conduct overrides this policy to the extent of information provided to the Conduct Review Panel or Conduct Reviewer.

GENERAL

Schedule 1 of the Government Information (Public Access) Regulation 2009 provides that certain documents held by Council are to be made publicly available for inspection, free of charge. This policy supports that requirement and outlines the procedure for accessing such information.

Interactions between Councillors and staff at Council meetings are regulated by Council's Code of Meeting Practice (Local Government (General) Regulation 2005 [Part 10 – Meetings] and Council's Code of Conduct.

An associated procedure further outlines Councillor access to Council offices, inappropriate interactions, and the process for reporting breaches.

RELATED POLICIES/DOCUMENTS

Local Government Act 1993

Local Government (General) Regulation 2005

Government Information (Public Access) Act 2009

Government Information (Public Access) Regulation 2009

Code of Conduct and Procedures for the Administration of the Code of Conduct

Privacy and Personal Information Protection Act 1998

Code of Meeting Practice

Public Interest Disclosures Act 2013

All policies can be reviewed or revoked by a resolution of Council, at any time.

Responsible Area – Corporate and Commercial Services

REVISION					
	DATE	RESOLUTION		DATE	RESOLUTION
1	January 2006	06/685	6	15 Oct 2013	13/553
2	January 2007	07/207	7	August 2014	14/851
3	January 2008		8	September 2015	15/521
4	November 2009	09/453	9	19 December 2017	17/583
5	3 May 2012	12/166	10	2 April 2019	19/225

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SUMMARY OF AMENDMENTS

Amendment Date	Section/Reference and Amendment
November 2018	<p>Update to reflect minor amendments to open access information provisions from the Government Information (Public Access) Regulation 2009:</p> <p>3 - Information about Development Applications (page 4 of procedure – addition of the words “records of decisions made on or after 1 July 2010” before “Development Applications” where appearing in Clause 3(1)(b).</p> <p>3 - Addition of clause 3(2)(c) “Development applications made before 1 July 2010 and any associated documents received (whether before, on or after that date) in relation to the application” (page 4 of procedure).</p> <p>Minor Formatting – Update in line with new Styling Guide.</p>
November 2017	<p>Update to reflect minor amendments to open access information provisions from the Government Information (Public Access) Regulation 2009.</p> <p>Access to information:</p> <p>2 – Addition of timeframes for providing responses to requests for information from Councillors</p> <p>Interaction between Councillors and staff</p> <p>2 – Addition of timeframes around responses to questions taken on notice.</p> <p>3 – Addition of monthly reports to Council on questions taken on notice.</p> <p>Inappropriate interactions:</p> <p>Include reference to Council’s Code of Conduct</p> <p>Remove 11 – it is appropriate that staff and staff organisations have discussions with Councillors in relation to matters of broad industrial policy (as provided for in points 1 and 2 of this section)</p> <p>Access to Council Offices</p> <p>2 – Addition – Councillors needing access to facilities at other times (outside normal business hours and for scheduled Council Meetings, Councillor Briefings and Community Committee meetings) must obtain authority from the General Manager (provision from the Code of Conduct).</p> <p>3 – Addition – Councillors must ensure that when they are within a staff area they avoid giving rise to the appearance that they may be improperly influence Council staff decisions (provision from the Code of Conduct).</p>
September 2015	<p>Minor update to reflect changes in Government Information (Public Access) Act 2009 in relation to “open access” records.</p> <p>Minor formatting changes.</p>

All policies can be reviewed or revoked by a resolution of Council, at any time.

August 2014	<ul style="list-style-type: none"> • Updated to highlight the requirement for Councillors to request information from the General Manager, or other Council Officer as nominated by the General Manager • Provision that Councillors should contact the Customer Service Team to report any standard works requests or requests for basic service information • Various minor amendments throughout to replicate wording in Council's Code of Conduct.
August 2013	Updated to include reference to Government Information (Public Access) Regulation 2009
May 2012	Updated to include reference to Government Information (Public Access) Act and the Public Interest Disclosures Act

Strategic Policy

Councillor Access to Information and their Interaction
with Staff - Procedure

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ACCESS TO INFORMATION

The Government Information (Public Access) Regulation 2009 requires that certain documents held by Council are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website or at the offices of the Council during ordinary office hours. Records may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges as set in Council's Delivery/Operational Plan.

1 Information about Council

- (1) Information contained in the current version and the most recent previous version of the following records is prescribed as open access information:
 - (a) the model code of conduct prescribed under section 440 (1) of the Local Government Act 1993 and the code of conduct adopted under section 440 (3) of the Local Government Act 1993
 - (b) code of meeting practice
 - (c) annual report
 - (d) annual financial reports
 - (e) auditor's report
 - (f) management plan
 - (g) EEO management plan
 - (h) policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors
 - (i) annual reports of bodies exercising functions delegated by Council
- (2) Information contained in the following records (whenever created) is prescribed as open access information:
 - (a) returns of the interests of Councillors, designated persons and delegates
 - (b) agendas and business papers for any meeting of the local authority or any committee of the local authority (but not including business papers for matters considered when part of a meeting is closed to the public)
 - (c) minutes of any meeting of Council or any committee of Council, but restricted (in the case of any part of a meeting that is closed to the public) to the resolutions and recommendations of the meeting
 - (d) Departmental representative reports presented at a meeting of the local authority in accordance with section 433 of the Local Government Act 1993
- (3) Information contained in the current version of the following records is prescribed as open access information:
 - (a) land register
 - (b) register of investments
 - (c) register of delegations
 - (d) register of graffiti removal work kept in accordance with section 13 of the Graffiti Control Act 2008
 - (e) register of current declarations of disclosures of political donations kept in accordance with section 328A of the Local Government Act 1993

- (f) the register of voting on planning matters kept in accordance with section 375A of the Local Government Act 1993.

2 Plans and policies

Information contained in the current version and the most recent previous version of the following records is prescribed as open access information:

- (a) local policies adopted by Council concerning approvals and orders
- (b) plans of management for community land
- (c) environmental planning instruments, development control plans and contributions plans made under the Environmental Planning and Assessment Act 1979 applying to land within the Council's area.

3 Information about development applications

- (1) Information contained in the following records (whenever created) is prescribed as open access information:
 - (a) development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and any associated documents received in relation to a proposed development including the following:
 - (i) home warranty insurance documents
 - (ii) construction certificates
 - (iii) occupation certificates
 - (iv) structural certification documents
 - (v) town planner reports
 - (vi) submissions received on development applications
 - (vii) heritage consultant reports
 - (viii) tree inspection consultant reports
 - (ix) acoustics consultant reports
 - (x) land contamination consultant reports
 - (b) records of decisions made on or after 1 July 2010 on development applications (including decisions made on appeal)
 - (c) a record that describes the general nature of the documents that Council decides are excluded from the operation of this clause by subclause (2).
- (2) This clause does not apply to so much of the information referred to in subclause (1) (a) as consists of:
 - (a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected
 - (b) commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret.
 - (c) development applications made before 1 July 2010 and any associated documents received (whether before, on or after that date) in relation to the application.
- (3) Council must keep the record referred to in subclause (1) (c).

4 Approvals, orders and other documents

Information contained in the following records (whenever created) is prescribed as open access information:

- (a) applications for approvals under Part 1 of Chapter 7 of the Local Government Act 1993 and any associated documents received in relation to such an application
- (b) applications for approvals under any other Act and any associated documents received in relation to such an application
- (c) records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals
- (d) orders given under Part 2 of Chapter 7 of the Local Government Act 1993, and any reasons given under section 136 of the Local Government Act 1993
- (e) orders given under the authority of any other Act
- (f) records of building certificates under the Environmental Planning and Assessment Act 1979
- (g) plans of land proposed to be compulsorily acquired by Council
- (h) compulsory acquisition notices
- (i) leases and licences for use of public land classified as community land.
- (j) performance improvement orders issued to Council under Part 6 of Chapter 13 of the Local Government Act 1993

PROCEDURE FOR ACCESS

- 1 Access to a Council file, record or other document will only be provided in accordance with this policy. This policy does not restrict statutory or common law rights of access.
- 2 Councillors should request information from the General Manager or from nominated Council Officers as advised by the General Manager. A response will be provided for general enquiries within five business days, however requests for information that require research, investigation or development will be provided within ten working days. If additional time is required, advice will be provided to the Councillor on the reason for this additional time.
- 3 Councillors who have a personal interest in a document of Council have access as provided under Privacy and Personal Information Protection Act 1998.
- 4 Councillors, acting in their civic capacity, have access to documents relating to any item currently before Council (with the exception of information the subject of which the Councillor has declared an interest). The General Manager may provide other such information as relevant to assist Councillors in their consideration of the item.
- 5 Any correspondence received after the business paper is prepared, will be tabled if the General Manager determines the information to be relevant, otherwise Council will be advised at the meeting. The information is to be available to Councillors during business hours.
- 6 Any information that is given to a particular Councillor in the pursuit of their civic duties must also be given to all other Councillors, with exception to information as part of any public interest disclosure, Conduct Review Panel or Conduct Reviewer process.
- 7 Councillors have an obligation to properly examine all the information provided to them relating to matters they are dealing with sufficient to make a decision on the matter.

- 8 The General Manager or the General Manager's nominee shall keep a record of all requests by Councillors for access to information (other than that listed in the GIPA Act or by notice of motion).
- 9 Councillors are encouraged to contact the Customer Service Team to lodge basic requests for works, or to seek basic information about Council services.

Interaction between Councillors and Council Staff During Meetings

- 1 The interaction between Councillors and staff at Council meetings is regulated by the Council's Code of Meeting Practice (Local Government (General) Regulation 2005 [Part 10-Meetings]) and Council's Code of Conduct.
- 2 Clause 249 of the Local Government (General) Regulation 2005 provides that Councillors may, through the Chairperson, ask questions of other Councillors and through the Chairperson and the General Manager, ask questions of Council staff. Such questions may be "taken on notice" by staff with a response to be provided. The response time will depend on the nature of the question. For routine enquiries, a response will be circulated as part of the weekly email to Councillors. For responses to more complex queries, the General Manager will determine if a report or memo will be provided to Councillors within a reasonable timeframe.
- 3 A report will be provided to Council on a monthly basis outlining the questions taken on notice during Council meetings and providing a status report.
- 4 The Local Government Act provides that the General Manager is responsible to the Council for the performance and direction of all staff and day to day management of Council.
- 5 Councillors may seek information from the General Manager and Directors (and other staff as advised by the General Manager) by telephone, email, fax, or by appointment or in writing if seeking a response to a complex matter.
- 6 Directors are to advise the General Manager of information requested by Councillors.
- 7 If the matter is contentious Directors should converse with the General Manager before providing information to Councillors. In relation to particular matters the General Manager may require all Councillors to be provided with the information at the same time that the Councillor who requested it, is being notified.
- 8 In particular circumstances, the General Manager may refuse the request, but in doing so, must indicate in writing the reasons for the refusal.
- 9 If the Councillor is concerned about the refusal for requested information, the matter should be raised with the General Manager, then the Mayor and/or place a Notice of Motion in the Business paper within the timeframes established by the Code of Meeting Practice.
- 10 Councillors must not attempt to direct staff in the performance of their work. Staff should report any such incidents to the General Manager.
- 11 Councillors must not request staff to undertake work for the Councillor or any other person.

Inappropriate Interactions

In accordance with Council's Code of Conduct, you must not engage in any of the following inappropriate interactions:

- 1 Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader industrial policy issues.
- 2 Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than workforce industrial policy issues.
- 3 Council staff refusing to give information that is available to other Councillors to a particular Councillor.
- 4 Councillors and administrators who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
- 5 Councillors and administrators being overbearing or threatening to Council staff.
- 6 Councillors and administrators making personal attacks on Council staff in a public forum.
- 7 Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make.
- 8 Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- 9 Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
- 10 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 or administrator, exercising their power under section 226 of the Local Government Act.

Access to Council Offices

- 1 Elected members are entitled to access the Council Chamber, Councillors Workroom, Mayoral Office and public areas of Council's Civic Centre during normal business hours and for adopted Council Meetings, Councillor Briefings and Community Committee meetings.
- 2 Councillors needing access to these facilities at other times must obtain authority from the General Manager.
- 3 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 Councillors are provided with security fobs that allow access to the Civic Centre and areas indicated above.

Reporting Breaches

- 1 In the case of a complaint against a Councillor, this is to be reported to the Mayor and/or Council, in the case of a staff member to the General Manager, in accordance with Council's Code of Conduct.
- 2 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.
- 3 The Council must decide whether a matter reported to it under the policy, reveals a breach. The procedures set out in Council's Code of Conduct apply.