

Bayside Council

Serving Our Community

Council Officials Relationships and Access Policy

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Council Officials Relationships and Access Policy

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1 Introduction

1.1 Background

Good working relations between Council officials, access to appropriate information and resources, as well as agreed values and behaviours are all important to achieving Council's desired outcomes.

Among other things, the *Code of Conduct* deals with 'Relationship between Council Officials' and 'Access to Information and Council Resources'. It outlines particular obligations for Councillors and staff, including specific inappropriate behaviours.

This policy provides further guidance to the Code requirements in relation to:

- interactions between Council officials,
- Councillor access to information and resources, and
- breaches of this policy may be viewed as a breach of the Code of Conduct.

1.2 Definitions

The definitions of certain terms are:

Council officials

Council officials include Councillors, Administrators, employees (permanent, temporary, casual), Council committee members, volunteers and others who fulfil responsibilities on behalf of Council.

Councillors

The requirements for 'Councillors' in this policy also refer to Administrator/s appointed under the Act.

Supervisor

A supervisor is a position holder to whom a Council official reports to as depicted in the approved organisation structure and who is deemed generally to be directly responsible for the oversight of the official during the execution or performance of Council duties. For clarity, in the case of Councillors it is deemed to be the Mayor; in the case of directors it is the General Manager; in the case of managers it is generally the Director; it may also be a Coordinator or Team Leader.

the Act

Local Government Act 1993

IT

Information technology

ICAC

Independent Commission Against Corruption

1.3 Policy statement

Council officials are to be aware of each other's roles and responsibilities in both the strategic and operational aspects of the Council, and utilise interactions, information and resources ethically, responsibly and appropriately for effective decision-making in the public interest.

1.4 Scope of policy

This policy applies to all Council officials.

1.5 Roles and responsibilities

1.5.1 Governance framework

Understanding roles and responsibilities is a key to a sound governance framework, and in particular to sound decision-making. As outlined in Council's *Governance Framework*:

Council strives to have effective working relationships that are promoted and supported among the Mayor, Councillors, General Manager and the administration. Importantly, all roles are understood and accepted by each other.

1.5.2 Councillors

Councillors have distinct roles, which are described in section 232 of the Act. (Refer Appendix 1 for detailed roles)

The Mayor (and Deputy Mayor if required) also have additional responsibilities as outlined in section 226 of the Act. These roles include policy-making in cases of necessity, presiding at meetings, and civic and ceremonial functions.

From these descriptions (which are outlined in detail in Appendix 1), it is evident that Councillors are not involved in day-to-day operational issues, but rather in the strategic aspects of Council. Decision-making is by the Councillors as a whole acting as a body politic, unless the Mayor, General Manager or staff are delegated to make specific decisions. Yet it is also evident that a Councillor's role extends beyond attendance at formal meetings of Council.

1.5.3 General Manager and staff

Section 335 of the Act (refer to Appendix 1) describes the functions of the General Manager, and includes: implementing Council decisions effectively and efficiently; assisting Council in its integrated planning and reporting; day-to-day management of operations; and the appointment and management of staff.

The General Manager delegates and/or directs staff to carry out the day-to-day operations of the Council, and to implement policies and other decisions of Council.

1.5.4 Other Council officials

The roles and responsibilities of other Council officials are defined in contracts of employment, position descriptions, delegations of functions, Council policies and procedures, terms of reference and other documents relating to the activities of the officials.

The role of the Public Officer of Council is described in section 343 of the Act. (Refer Appendix 1 for detailed functions)

2 Relationships

2.1 Conduct principles

Councillors, committee members, staff and other Council officials will interact appropriately, at all times.

The *Code of Conduct* sets the expected behaviour for Council officials. The relationships among Council officials (and with the public and others) should reflect the following general key principles:

- *Integrity* – having no external obligations that may influence performance of duties
- *Leadership* – promoting public duty to others
- *Selflessness* – making decisions in the public interest
- *Impartiality* – making decisions on merit and in accordance with statutory obligations
- *Accountability* – being accountable for decisions made
- *Openness* – being as open as possible in decision-making and the associated reasons
- *Honesty* – acting honestly and declaring any private interests
- *Respect* – treating others with respect at all times.

By embracing these key principles, Council officials will minimise inappropriate interactions between themselves and other officials.

Officials must also embrace Council's values, as adopted, from time to time.

The *Code of Conduct*¹ sets out the obligations and certain inappropriate behaviours of Council officials in terms of relationships and interactions. This policy builds on the following principles in relation to interactions.

2.2 Inappropriate interactions

Given the importance of roles and responsibilities as a key element of decision-making and good governance, it is important that relationships are well managed. Certain behaviours in relationships are appropriate and others are inappropriate.

The *Code of Conduct* prohibits certain interactions and/or behaviours of Councillors and staff. Such situations described in the Code include, but are not limited to:

- a Councillors approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues. (*refer also to 2.7.5 Staff matters*)
- b Council staff approaching Councillors to discuss individual or operational staff matters other than broader workforce policy issues.
- c Council staff refusing to give information that is available to other Councillors to a particular Councillor.
- d Councillors who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
- e Councillors being overbearing or threatening to Council staff.

¹ Council's Code of Conduct, Part 6

- 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.
- h 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.
- i Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
- j 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.

In particular, Council officials will not use their role to receive favourable treatment for themselves, any other person or an organisation in relation to a private matter.

This policy provides further guidance on these and other typical situations.

2.3 Councillor contacts

It is entirely appropriate that Councillors have access to information in order to carry out their civic duties. For this purpose, the General Manager approves a list of position-holders that Councillors are permitted to contact. This list is made available to both Councillors and staff.

The general principles that determine which position-holders are included in the Councillor contact list are:

- The executive and managers
- Specific coordinators, whose responsibilities have a particular interest to Councillors and the community
- Specific staff whose responsibilities include direct support for Councillors, including administrative, IT and meeting secretariat assistance.

If staff (other than the nominated Councillor contacts) receive requests from Councillors, they are to politely and respectfully take a message, explaining that their manager will respond to the query.

Staff, who are not nominated Councillor contacts, must not contact Councillors about Council business.

2.4 Formal forums

During formal forums such as Council Meetings, Information Sessions and Strategic Reference Group meetings, staff are often asked questions in order to clarify reports and issues being considered by the meeting. It is entirely appropriate for staff (who are not a nominated Councillor contact) to answer questions within their area of responsibility, when the relevant director / manager is present.

2.5 Informal interaction

Council officials will often know other officials socially. It is appropriate to be cautious with such relationships, to ensure there is no perception of inappropriate influence either way. Council business should not be discussed.

In particular, there will also be occasions when Councillors and staff interact incidentally and informally. Such conversations should not involve discussions about individual Council officials or policy issues, nor should conversations be negative or critical of other Council officials.

2.6 Communications

In order to minimise misunderstandings, important communications between Councillors and Council administration should normally be written. Such communications are ideally electronic using the IT tools available to Councillors and staff.

In particular, the Councillor Portal (an on-line extranet), provides a single point from where Councillors can obtain information in order to carry out their civic duty. It includes access to:

- Business papers
- Memos from the General Manager and departments
- Calendar and information about up-coming events
- Councillor resources
- Councillor requests and other forms.

Refer also to clauses *2.3 Councillor Contacts*, *2.8 Informing Councillors* and *3.1 Access to information*.

2.7 Typical situations

2.7.1 Councillors as residents

As Bayside residents and/or ratepayers, Councillors receive the same customer service as other residents and ratepayers. In this regard, they contact Council's Customer Service, the Library and other front-line staff of Council in the normal manner as publicised by Council, as any other member of the public.

Customer Service, Library and other staff provide prompt and courteous service in: the payment of rates; making enquiries, requests or complaints; lodging applications; and other transactions.

2.7.2 Officials as Council customers

Council officials (including Councillors and staff) who are lodging an application, paying rates or dealing with Council on other resident / ratepayer business, are to do so in the same way a member of the public does.

For example, development applications lodged in person, are to be presented at the counter of the Customer Information Centre in public view. All pre-lodgement and subsequent discussions and correspondence should also be through the same channels that are open to the public.

In addition, development applicants and/or landowners, who are Council officials or who have a close relationship with any Council official, are to declare the relationship and the associated conflict of interest in the application. Such development applications that identify pecuniary or non-pecuniary conflict of interests (that are significant) are to be assessed independently.

2.7.3 Lobbying of Councillors

Appropriate lobbying of Councillors is part of the democratic process and an acceptable feature of the relationship between citizens and their elected representatives. However, it is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making.

The following are examples of inappropriate or unlawful conduct that may occur during a lobbying process:

- Accepting undisclosed payments or benefits while making a decision that affects the giver's interests
- Accepting a political donation in return for the favourable exercise of discretion during decision-making
- Granting access to a particular individual or group while unreasonably denying similar access when requested by another party
- Fettering discretion by giving undertakings to an interested party prior to considering all the information available relevant to a decision
- Directing staff over the content of any advice or recommendation on a council matter as a result of being lobbied by a third party
- Disclosing confidential information while being lobbied
- Being unduly influenced by factors that are irrelevant to the merits of the matter under consideration.

More guidance about lobbying is provided by ICAC.²

In order to manage such interactions with lobbyists, it is appropriate that Councillors are accompanied by the appropriate 'Councillor contact' staff member. A written record of any meeting held and the discussion should be placed on the relevant Council file.

Such interactions might include site visits, or meetings and the like with developers, tenderers or other applicants regarding matters that may be or are before Council.

Where Councillors have been provided with information by Council staff so as to be fully aware of the issues, it is done so on the basis that it is for their civic use. Such information is not to be disclosed to the lobbyist or others unless authorised.

2.7.4 Councillor requests

In their civic duty role (as distinct from any private role), Councillor requests could comprise several types:

- Assistance for the Councillor in their civic duty
- Request for a Council service on behalf of a constituent
- Request for a Council service for the Councillor themselves (as a resident / ratepayer)

The latter two attract the same priority as would be allocated to a resident / ratepayer request. However, Councillors are afforded the convenience of lodging all requests (relating to their civic duty role) on-line through the Councillor Portal.

² Refer ICAC 'Lobbying local government councillors – a guide for councillors, constituents and other interested parties' August 2006.

2.7.5 Staff matters

Councillors and staff may not discuss ‘individual or operational staff matters’. Such discussions would include restructures, redundancy payments, salaries, positions, Councillor / staff performance.

In terms of integrated planning and reporting however, Council (and therefore Councillors) will consider broad workforce issues raised in the Workforce Management Plan. The thrust of these issues are reflected in Council’s Delivery Program and Operational Plan.

2.8 Informing Councillors

As described in the *Code of Conduct*, the General Manager has the responsibility to provide Councillors with “information sufficient to enable them to carry out their civic office functions.”³

Refer to 3.1 *Access to Information*, which expands on this issue.

3 Access

3.1 Access to information

3.1.1 Statutory obligations

Council’s *Code of Conduct*⁴ requires that:

- Councillors must have access to all information available under the *Government Information (Public Access) Act 2009*.
- Councillors must receive sufficient information, in a timely fashion, to enable them to carry out their civic duties.
- Councillors who have a private interest (as distinct from a civic interest) in a matter, have the same rights of access as a member of the public.

3.1.2 Provision of information

The provision of information to Councillors occurs through the following vehicles:

- Business Papers – on-line agendas, reports and minutes
- Councillor Information Sessions – briefings on current proposals
- Councillor Portal – details of upcoming events, committees, policies and issues.

If information additional to that provided is required by Councillors to enable them to undertake their civic duties, Councillors may request the information from a nominated Councillor contact. If the request is appropriate (such as additional information relating to a matter on a meeting business paper), the information will also be available to any other Councillor who requests it.

Information traditionally provided to selected members (such as Ward Councillors), is provided on the Councillor portal, and is available to all Councillors.

³ Council’s Code of Conduct, Part 7

⁴ Council’s Code of Conduct, Part 7

3.1.3 Refusal to provide information

The *Code of Conduct* outlines arrangements where access to documents by a Councillor is refused.

3.1.4 Information not in the public domain

Much of the information provided to Councillors is done so before it is released into the public domain. Although it may not be 'confidential' it is often provided to Councillors before firm proposals are developed in order to assist in decision-making. Such information must not be shared with others unless or until it is authorised for release.

In particular, some information provided to Councillors is 'confidential' as outlined in the *Local Government Act 1993* – it is normally marked 'Confidential'. Although Councillors are entitled to such information, the provision of it is counterbalanced by the obligation to use it appropriately and to maintain its integrity and security. Confidential information is not to be disclosed to unauthorised persons or used for improper purposes. The passing on of 'confidential' information to an unauthorised person would be viewed as a breach of the *Local Government Act* and *Code of Conduct*.

In regard to confidentiality, the medium (that is, hardcopy or electronic options) of communications is irrelevant in terms of handling them. If it is inappropriate to pass on to others a particular hardcopy confidential paper, it is inappropriate to forward the same paper electronically. This requirement includes allowing others to 'view' the confidential information.

In addition, personal information is generally protected from release to the public in accordance with Council's *Privacy Management Plan* and the *Personal Information Protection Act 1998*. Similarly, health information is protected under the *Health Records and Information Privacy Act 2002*.

3.1.5 Electronic information

Council encourages the sharing of information in an appropriate electronic medium. The *Electronic Communications Policy* states "Council officials are to use electronic communications and/or records, and electronic devices ethically, effectively, efficiently and carefully in the course of their duties." The policy goes on to outline the standards, record-keeping, security and access, and personal use and privacy requirements.

For further information, consult the above-mentioned document in Council's Policy Register.

3.1.6 Government information

Under the *Government Information (Public Access) Act 2009*, Council makes available to the public (including Councillors) certain government information:

- Open Access Information – as required by section 6 of the Act, and further outlined in the associated Regulation
- Other Information – proactively released as authorised by section 7 of the Act, unless there is an overriding public interest against disclosure of the information – such as the release of personal information as defined in the *Personal Information Protection Act 1998*.

Refer also to Council's *Access to Information Policy*, and *A Guide to Accessing Information Held by Council*.

3.2 Access to resources

3.2.1 Expenses & Facilities Policy

Council adopts an *Expenses and Facilities Policy* for the Mayor and Councillors as required by section 252 of the Local Government Act 1993 and any Guidelines issued by the Office of Local Government. The Policy outlines the payment of fees and reimbursement of appropriate expenses, and the provision of facilities to enable Councillors to undertake their civic duties.

The Policy also outlines the obligations of Councillors, including the requirement that "Councillors must use Council resources effectively and economically ..." The *Expenses and Facilities Policy*, which should be read in conjunction with the *Code of Conduct*, can be found in Council's Policy Register.

3.2.2 Tools of trade for staff

In a similar way that Councillors are provided with facilities, Council staff are also provided with 'tools of trade' in order to undertake their duties and fulfil the functions of Council. These facilities are determined from various standpoints:

- Statutory requirements
- Work, health and safety requirements, particular to the duties
- Common and widely accepted provisions of workplaces
- Approved equipment and business systems for improved efficiency and/or effectiveness.

3.2.3 Personal use of resources

Council officials should not obtain private benefit from the provision of facilities provided by Council in order to undertake their duties. However, as outlined in the *Electronic Communications Policy*, it is acknowledged that incidental use of Council electronic communications and associated devices may occur from time to time.

More than incidental use and other inappropriate private use of Council resources is a breach of the *Code of Conduct*.

3.2.4 Motor vehicles

Council's *Fleet Manual (Use of Council Motor Vehicles and Plant)* outlines aspects of use and operation of Council vehicles. It includes availability and assignment, restrictions of use, permitted drivers, taking home vehicles, and work health and safety issues.

In particular, the manual makes it clear that:

- all vehicles (whether under leaseback or not) are to be available to staff generally for performing their official duties.
- Council vehicles are not to be taken home except with a business case approval and/or other specified conditions – this requirement does not apply to vehicles under leaseback, salary sacrifice or employment packaged

arrangements.

3.2.5 Electronic Communications

Electronic devices, communications and records are ‘resources’ in terms of the *Code of Conduct*, and as such are to be used ethically, effectively, efficiently and carefully by Council officials in the course of their duties.

Refer to Council’s *Electronic Communications Policy* and the associated procedures for the standards and other requirements.

3.2.6 Resources for elections

Both the *Code of Conduct* and the *Expenses and Facilities Policy* prohibit the use of Council equipment, facilities and services for political purposes or in the production of election material. This restriction extends to advice from staff on the design and production of such material.

3.3 Access to buildings

3.3.1 Rooms and spaces available

Councillors’ access to Council buildings is outlined in the *Code of Conduct*⁵. The requirements are based on the principle that, in carrying out their civic duties, Councillors have access to the public areas of the Council buildings and other nominated areas. Councillors would not normally enter staff areas. Councillors are advised of the exact areas where access is permitted.

Staff have access to all those areas of Council buildings and facilities that are necessary for them to undertake their work – due to confidentiality and/or security reasons some areas may be restricted. The General Manager, Manager Executive Services and other managers may approve a general access regime and/or changes in access for individual staff members.

Other Council officials (such as volunteers and external committee members) may enter meeting and staff areas when accompanied by a staff member, in addition to the public areas of Council facilities.

Members of the public would not normally enter any staff areas of Council unless on council business and accompanied by a staff member.

3.3.2 Times

In addition to normal business hours, Councillors and staff have out-of-hours access to buildings and facilities in order to attend meetings and undertake their duties. The General Manager, Manager Executive Services and other managers may approve a general access regime and/or changes in access for individual staff members.

3.3.3 Security arrangements

Councillors and staff that have access to Council buildings and facilities are issued with electronic access keys, programmed to suit their individual authorities.

⁵ Council’s Code of Conduct, Part 7

4 Policy implementation

4.1 Policy responsibilities

The General Manager is responsible for this policy overall.

The Manager Executive Services is responsible for the implementation of this Policy, including monitoring its effectiveness.

In terms of breaches of this policy (and the *Code of Conduct*), the Manager Governance and Risk is responsible for coordinating complaints and/or disclosures under the Code and Council's *Public Interest Disclosures Policy*.

Managers and coordinators are to ensure Council officials, who report to them, are made aware of this Policy.

4.2 Procedures

Procedures that support this Policy, may be approved by the General Manager from time to time and include such items as:

- Nomination of staff position-holders who are authorised Councillor contacts.
- The detailed process for dealing with applications from Council officials.
- Councillor communications.

4.3 Breaches

Since this policy provides further guidance to the *Code of Conduct* requirements in relation to interactions between Council officials, and Councillor access to information and resources, breaches are considered breaches of the Code.

Complaints about alleged breaches of this policy are made in accordance with Council's *Code of Conduct Procedures*. Any complaints will be dealt with and reported on in accordance with the Procedures.

5 Document control

5.1 Review

This policy is to be reviewed at least every term of a Council. Amendments to this policy are to be submitted to Council for approval, apart from non-significant and/or editorial amendments, which can be approved by the General Manager.

5.2 Related documents

This document should be read in conjunction with:

- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009*
- *Private & Personal Information Protection Act 1998*
- *State Records Act 1998*
- Council's *Code of Conduct*
- Council's *Expenses and Facilities Policy* for Councillors
- Council's *Electronic Communications Policy* and associated procedures

- Council's *Access to Information Policy*
- Council's *A Guide to Access Information Held by Council*
- Council's *Motor Vehicles and Plant Policy* and associated manual

5.3 Version history

This policy is based on a former Rockdale City Council guideline approved by the General Manager, Rockdale City Council on 9 March 2015.

| Version | Release Date | Author | Reason for Change |
|----------------|---------------------|---------------|--|
| 1.0 | 14 June 2017 | Warren Park | Harmonised document from former Councils |

Appendix 1 - Roles

Mayor and Councillors

The Mayor (and Deputy Mayor if required) have additional responsibilities (than those of a councillor) as outlined in section 226 of the Act:

226 Role of mayor

The role of the mayor is as follows:

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,
- (o) to exercise any other functions of the council that the council determines.

232 The role of a councillor

- (1) The role of a councillor is as follows:
 - (a) to be an active and contributing member of the governing body,
 - (b) to make considered and well informed decisions as a member of the governing body,
 - (c) to participate in the development of the integrated planning and reporting framework,
 - (d) to represent the collective interests of residents, ratepayers and the local community,
 - (e) to facilitate communication between the local community and the governing body,
 - (f) to uphold and represent accurately the policies and decisions of the governing body,
 - (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.
- (2) A councillor is accountable to the local community for the performance of the council.

General Manager and staff

Section 335 of the Act describe the functions of the General Manager:

The General Manager delegates and/or directs staff to carry out the day-to-day operations of the Council, and to implement policies and other decisions of Council.

335 Functions of general manager

The general manager of a council has the following functions:

- (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,
- (b) to implement, without undue delay, lawful decisions of the council,
- (c) to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
- (d) to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,
- (e) to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,
- (f) to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,
- (g) to exercise any of the functions of the council that are delegated by the council to the general manager,
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,
- (i) to direct and dismiss staff,
- (j) to implement the council's workforce management strategy,
- (k) any other functions that are conferred or imposed on the general manager by or under this or any other Act.

Public Officer

The role of the Public Officer of Council is defined in section 343 of the Act.

343 Functions of the public officer

- (1) The public officer:
 - may deal with requests from the public concerning the council's affairs
 - has the responsibility of assisting people to gain access to public documents of the council
 - may receive submissions made to the council
 - may accept service of documents on behalf of the council
 - may represent the council in any legal or other proceedings
 - has such other functions as may be conferred or imposed on the public officer by the general manager or by or under this Act.
- (2) The public officer is subject to the direction of the general manager.

The Public Officer at Council is the Manager Governance & Risk.