



## 1.01 – Councillor Access to Information and Interaction with Staff

### 1. INTRODUCTION

The purpose of this policy is to ensure that the Councillors have access to information and staff in order to ensure the smooth functioning of the Council.

### 2. POLICY OBJECTIVE

- Complement the Code of Conduct for Councillors and staff.
- 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 relevant legislation.
- Reference a clear and consistent framework through which breaches to this policy will be managed and reported in accordance with Council's Code of Conduct.

### 3. POLICY SCOPE

This Policy applies to:

- Councillors
- Council employees and contractors

### 4. DEFINITIONS

**Councillors** refer to all elected representatives of the Norfolk Island Regional Council.

**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).

**General Manager** refers to the person appointed in this role.

The role of the General Manager is to be responsible for the day to day operations of Council, while Council staff undertake their duties according to directions from the General Manager, by following established policy and procedure (S335).

The General Manager and Public Officer are responsible for ensuring that members of the public, Councillors and Administrator appointed under the *Local Government Act 1993 (NSW) (NI)* can gain access to the documents available under the *Freedom of Information ACT 1982*.

**The Public Officer** is the Executive Manager Governance and Human Resources.

**Group Manager** refers to senior positions within the *Local Government Act 1993 (NSW) (NI)*.

**Manager** refers to Managers within the organisational structure adopted at any time and as nominated by the General Manager.

**Professional staff** refers to professional staff nominated by the General Manager.

## 5. LEGAL AND POLICY FRAMEWORK

- *Local Government Act 1993 (NSW) (NI)*
- *Local Government (General) Regulations 2005*

## 6. IMPLEMENTATION

### 6.1 Communication

Each Councillor will be provided with a copy and a copy of the Policy will be kept in the Council Chamber for reference. A copy will also be available on the Council website.

A copy of this Policy is to be displayed at all work sites throughout the Council area. The Policy is to be made available to all staff via the Internet and a printed copy if employees do not have access to Council's Intranet.

### 6.2 Associated Documents

- Councillor Handbook 2017
- Norfolk Island Regional Council Code of Conduct 2016
- Norfolk Island Regional Council Code of Meeting Practice 2016
- Clauses included from *Councillor Access to Information and Interaction with Staff* Policy from Ballina Shire (April 2017) and Snowy Valley (August 2017) Councils.

## 7. POLICY

### INTERACTION BETWEEN COUNCIL OFFICIALS

#### 7.1 Obligations of Councillors

Each Council is a body corporate. The Councillors (or Administrator) 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 Act and is responsible for policy determinations.

According to the Code of Conduct, Councillors or Administrators must not:

- 7.1.1 Direct 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, or by the Mayor or Administrator exercising their power under section 226 of the Act (section 352).
- 7.1.2 In any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate (Schedule 6A of the Act).
- 7.1.3 Contact a member of the staff of the Council on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager.
- 7.1.4 Contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or Administrator 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.

## **7.2 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.

According to the Code of Conduct, members of staff of Council must:

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

## **7.3 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 the Council. The interaction between Councillors and staff at Council meetings and Committee meetings is regulated by:

- S.360 of the *Local Government Act (NSW) (NI)*
- 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 *Local Government Act 1993 (NSW) (NI)* enables the 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.

Clause 249 of the *Local Government (General) Regulation 2005* 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.

## **7.4 Outside of meetings**

The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or Committee meeting, be directed to the General Manager, or if approved by the General Manager, to the relevant Group Manager or Manager.

- 7.4.1 Only Group Managers, Managers and Professional Staff nominated by the General Manager, can provide advice to Councillors, excluding advice on administrative matters. For example, Professional Staff can provide advice when they have been nominated as a staff representative on an Advisory Committee.
- 7.4.2 It is within the discretion of the General Manager to require Councillors to make an appointment with a Group Manager, to put a request in writing, or to put it on notice to the Council to obtain detailed or otherwise time-consuming information. Councillor Action Requests then form part of Council records and can be filed appropriately.
- 7.4.3 Councillor Action Request forms are to be used for all written requests for information.

- 7.4.4 For all straightforward advice on administrative matters, Councillors can contact the Customer Care, as would any member of the public.
- 7.4.5 A Group Manager has the discretion to refer any request for information to the General Manager.

## **7.5 Inappropriate interactions**

Council's Code of Conduct states that the following interactions are inappropriate:

- 7.5.1 Councillors and Administrators approaching staff and staff organisations to discuss individual staff matters and not broader industrial policy issues.
- 7.5.2 Council staff approaching Councillors and Administrators to discuss individual staff matters and not broader industrial policy issues.
- 7.5.3 Council staff refusing to give information that is available to other Councillors to a particular Councillor.
- 7.5.4 Councillors and Administrators who have lodged a development application with Council, discussing the matter with council staff in staff-only areas of the Council.
- 7.5.5 Councillors and Administrators being overbearing or threatening to Council staff.
- 7.5.6 Councillors and Administrators making personal attacks on Council staff in a public forum.
- 7.5.7 Councillors and Administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
- 7.5.8 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.
- 7.5.9 Council staff meeting with developers alone and outside office hours to discuss development applications or proposals.
- 7.5.10 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 Act.

## **ACCESS TO AND USE OF INFORMATION, RESOURCES AND PREMISES**

### **7.6 Rights of access to information**

- 7.6.1 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 interested. The statutory role and duties of Mayor, Councillors and the General Manager are outlined in Sections 222, 223, 226, 232 and 335 of the *Local Government Act 1993 (NSW) (NI)*.
- 7.6.2 The General Manager and Public Officer are responsible for ensuring that members of the public, Councillors and Administrator appointed under the *Local Government Act 1993 (NSW) (NI)* can gain access to the documents available under the *Freedom of Information Act 1982*.

- 7.6.3 Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights as any other person. No provision in this policy will afford any Councillor preferential treatment in the provision of any Council service when the Councillor is acting outside his or her civic role and in their capacity as a private individual.
- 7.6.4 Councillors must not release personal information about a third party except in accordance with the provisions of the *Privacy Act 1988*. The Public Officer can advise on this.

## **7.7 Access to information**

- 7.7.1 Councillors can request access to Council information relating to their civic duties by lodging a Councillor Action Request with the General Manager. The General Manager will assess the request and delegate the action to the appropriate staff member.
- 7.7.2 The staff will expediently arrange for access to the requested information and the General Manager will provide the same to all Councillors provided the request is in accordance with this policy.
- 7.7.3 Each request will be treated on its merits but as a general rule those records immediately seen as relevant to the exercising of a Councillor'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.
- 7.7.4 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.
- 7.7.5 Councillors may also request access to other documents of the Council by a Notice of Motion to the Council.
- 7.7.6 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 must be provided.
- 7.7.7 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.
- 7.7.8 The completion of a formal access application form under *Freedom of Information Act 1982* 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.
- 7.7.9 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.
- 7.7.10 There may be occasions where the release of personal information or information identifying a person would be contrary to the *Privacy Act 1988*. The General Manager will act in accordance with the relevant law when providing information to Councillors.

## **7.8 Use of information by Councillors**

- 7.8.1 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.
- 7.8.2 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.
- 7.8.3 It notes that while it is desirable in the public interest to maintain open 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.
- 7.8.4 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.
- 7.8.5 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.
- 7.8.6 The General Manager will provide guidance and assistance to Councillors in determining whether a document is confidential and/or not to be released.
- 7.8.7 Councillor Action 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*.

## **7.9 Access to Council Premises**

- 7.9.1 As elected members of the Council, Councillors are entitled to have access to the Council Chamber, Mayor's Office, Councillor's Office, General Manager's Office (when the General Manager is present) and public areas of Council's buildings.
- 7.9.2 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.
- 7.9.3 The Mayor and Councillors may enter 'staff only' areas in order to have a meeting with a Group Manager or Manager. This can only occur on the invitation by the General Manager. Meetings called by the Mayor should be held in the Mayor's Office or Council Chamber.

### **Reporting breaches**

All occasions of a Councillor and Council officer not complying with this policy should be immediately reported to the General Manager, or to the Mayor when related to the General Manager.

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

**8. REVIEW AND VERSION CONTROL**

Policy Number	1.01		Responsible Officer	General Manager
Effective Date	20 December 2017		Next Review Date	2020
Version Number	<b>Version</b>	<b>Resolution No.</b>	<b>Effective Date</b>	<b>Version description</b>
	V1	14/16	20 July 2016	Developed and Adopted
	V2	2017/215	20 December 2017	Reviewed and Adopted