

FILE NO: PSC2011-02442

TITLE: WORKING TOGETHER AND PROVISION OF INFORMATION

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 This policy seeks to provide Council officials with clarity in respect to their respective obligations and responsibilities in dealing with each other.
- 1.2 It is recognised that interaction between Council officials may in certain circumstances have the potential to lead to unacceptable behaviours, and it is necessary to document an understanding about what to do if this occurs.
- 1.3 Employees should be aware that the Mayor/Councillors are elected to represent the community, to provide community leadership and guidance, and to facilitate communication between the community and Council. Employees should provide assistance to the Mayor/Councillors in fulfilling their role in accordance with this Policy and the Code of Conduct.
- 1.4 The Mayor and Councillors should be aware that employees have a legitimate right and responsibility to maintain professional integrity and should not be subject to undue pressure. The Mayor and Councillors should avoid placing employees in difficult positions with requests for information and action.

2. CONTEXT/BACKGROUND:

- 2.1 Council is committed to providing an environment where the Mayor, all Councillors, employees, contractors, volunteers and customers are treated with respect, dignity and courtesy. As such, we have the right to be in an environment that is free from unacceptable behaviours, and we all have a responsibility to ensure this happens.
- 2.2 To this end, the Local Government Act 1993 and the Model Code of Conduct require appropriate interaction between Council officials. The Mayor, Councillors and Council staff have very different roles to play within Council.
- 2.3 The elected Council is responsible for policy making and strategic direction. The General Manager is responsible for the day to day administration of Council. Under the leadership of the General Manager, the Executive Team provides assistance to the General Manager in managing their respective areas of responsibility.

- 2.4 This Policy is not intended to limit any statutory and common law rights of the Mayor and Councillors' access to information; nor to limit their obligations as elected officials, but to provide an appropriate framework to work within.
- 2.5 Council is committed to a community partnership.
- 3. SCOPE:**
- 3.1 The Mayor and Councillors, as elected officials, will at times be involved in obtaining information from, make representations to, or facilitate communication with, Council staff on behalf of constituents.
- 3.2 The General Manager has nominated particular roles within Council, which the Mayor and Councillors are able to liaise directly with, to undertake their civic role. It is noted that Councillors are delegates on various committees such as 355 (c) Committees and as such will come into contact with staff other than those nominated. On such occasions, Councillors will be permitted to liaise with operational staff to assist with the operation of committees and groups, however contact should only be for the purpose of fulfilling committee obligations and not general operational matters.

Accessing Information by a Councillor

- 3.3 The Mayor or a Councillor will be provided with access to all relevant information relating to any matter before Council to ensure consideration can be given to any matter requiring a Council resolution. This will be conducted within the limits of the law such as, but not limited to, copyright and privacy legislation.
- 3.4 The General Manager has the right to refuse access to any documents the Mayor or a Councillor requests to view or obtain a copy of. Some of the limitations of access to certain Council records will be due to:
- a) a record that has been provided on a confidential basis and has been explicitly marked 'confidential' or is confidential under the Public Interests Disclosure Act 1994, Independent Commission Against Corruption (ICAC) Act 1988 or other legislation.
 - b) the General Manager has reason to believe that there may be a potential conflict of interest; or
 - c) access would violate the right to privacy of a particular individual/s.
- 3.5 If the General Manager refuses to allow the Mayor or a Councillor to inspect, or be provided with, a copy of a Council record, a written reason for the refusal will be provided.

- 3.6 If the Mayor or a Councillor seeks access to information outside their civic role, the request will be considered an application under the Government Information (Public Access) Act 2009.
- 3.7 If staff are unsure whether to provide the Mayor or a Councillor with information requested, or whether the request for action should proceed, staff should direct the matter to their Group Manager, the Public Officer or the General Manager for direction. Alternatively, the Mayor or the Councillor may be requested to direct their request through the General Manager's Office.
- 3.8 Should the Mayor or a Councillor be requested to direct their request through the General Manager's Office, the Mayor or a Councillor should not persist with their request through staff.

Mayor/Councillor requests

- 3.9 The Mayor and Councillors receive a large number of requests from residents seeking assistance of the Mayor/Councillors regarding a variety of Council functions. The Mayor and Councillors also at times seek further information on matters relating to their civic duties.
- 3.10 The Mayor and Councillors are able to lodge these requests verbally, by email, fax or in writing. All requests will be logged in the Councillor Request System (CRM). This enables the request to be tracked and actions recorded. Generally all requests should be directed to the Senior Executive Assistant to ensure the request is logged and forwarded to the appropriate staff for action. This Policy only extends to matters concerning the functions of an elected member where it is not covered by any other legislation and/or Council policy framework. Where the functions of an elected member is covered by other legislation and/or Council policy, the relevant legislation and/or Council policy will take precedence over this policy.
- 3.11 The Mayor and Councillors are responsible to ensure that they comply with any legislation that is imposed on Council such as (but not limited to) the Local Government Act 1993, the Privacy & Personal Information Protection Act 1998 and Copyright Act 1968 (Cth), Government Information (Public Access) Act 2009 and State Records Act 1998.
- 3.12 Only those employees nominated by the General Manager shall provide information to the Mayor/Councillors.
- 3.13 Generally, the Mayor or Councillors seeking to meet with nominated staff do so by way of an appointment and should not expect that staff are readily available. The General Manager has the discretion to require the Mayor/Councillors to put requests in writing, or to lodge a Notice of Motion at a Council meeting.

- 3.14 The Mayor and Councillors should generally lodge requests for information or advice in writing to enable a response by the General Manager or a nominated person. All requests will form part of Council's records and will be filed/stored in accordance with the State Records Act 1998.
- 3.15 Any request for information or advice that is refused, a reason for the refusal will be provided in writing. If the Mayor or a Councillor is concerned about the refusal to provide the information or advice, the Mayor or Councillor can raise the matter with the General Manager (or the Mayor if the General Manager refused to provide the information). If the Mayor or Councillor continues to be concerned after enquiries they should lodge a legal Notice of Motion at a Council meeting.
- 3.16 The Mayor and Councillors must not seek to direct Council staff in the performance of their duties. Should the Mayor or a Councillor behave in this manner the staff member should direct the Mayor or Councillor to the Group Manager or the General Manager.
- 3.17 No Council official should take advantage of their official position to improperly influence the Mayor, Councillors, Council staff or delegates in the performance of their public or professional duties.
- 3.18 The Mayor or Councillors should only enter staff only areas, by invitation or by prior arrangements for the purpose of official business.
- 3.19 A listing of employees nominated by the General Manager to communicate with the Mayor or Councillors will be maintained by the General Manager and a copy will be provided to the elected Council.
- 3.20 Acceptable behaviours:
- a) Treat everyone with respect, courtesy and dignity;
 - b) Open and balanced communications;
 - c) Respecting the roles of the other person;
 - d) Be inclusive on all matters;
 - e) Always seek to problem solve rather than placing blame.
- 3.21 Unacceptable behaviours:
- a) Mayor/Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters.

- b) Council staff approaching Mayor/Councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters.
- c) Subject to clause 8.6 of Council's Code of Conduct, Council staff refusing to give information that is available to other Councillors, to a particular Councillor.
- d) Mayor/Councillors and administrators, who have lodged an application with the Council, discussing the matter with Council staff in staff only areas of the Council.
- e) Mayor/Councillors and administrators approaching members of local planning panels, or discussion on any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and Councillor has a right to be heard by the panel at the meeting.
- f) Mayor/Councillors and administrators being overbearing or threatening to Council staff.
- g) Council staff being overbearing or threatening to the Mayor/Councillors or administrators.
- h) Mayor/Councillors and administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of the Code of Conduct in public forums including social media.
- i) Mayor/Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make.
- j) Council staff providing ad hoc advice to the Mayor/Councillors and administrators without recording or documenting the interaction, as they would if the advice was provided to a member of the community.
- k) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals.
- l) Mayor/Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the Council associated with current or proposed legal proceedings, unless permitted to do so by the Council's General Manager or, in the case of the Mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

(Extract from the Code of Conduct)

3.22 All reports of unacceptable behaviours will be dealt with in accordance with the Code of Conduct.

Access to Council Buildings

3.23 The Mayor and Councillors will be provided with 24 hour access to the Councillors room within the Administration Building. The Mayor will have 24 hour access to the Mayor's Office.

- 3.24 Mayor/Councillors will be provided with access to the Administration Building public areas during business hours. Mayor/Councillors will only be provided with access to staff areas during business hours and in the presence of a staff member.
- 3.25 Mayor/Councillors will only be provided with access to the Committee rooms and training room after hours where a staff member is present.

4. DEFINITIONS:

	Local Government Act 1993.
Council official	Is the mayor, elected councillor, council employee, contractor and volunteer.
Council staff/employee	An employee of Port Stephens Council performing duties in accordance with their role or under delegation.
Councillor	In accordance with section 232 (1) and (2) of the Local Government Act 1993.
Mayor	In accordance with section 226 of the Local Government Act 1993.
Record	Is any document that is written or printed material, sound recording, plan, map film, photograph, storage device, model, painting, disc or any other form of document that is held by Port Stephens Council.

5. POLICY STATEMENT:

- 5.1 The objectives of this Policy are to:
 - a) Provide a documented process on how the Mayor and Councillors can access Council records.
 - b) Ensure the Mayor and Councillors received advice to assist in undertaking their civic duties in an orderly and regulated manner.
 - c) Ensure the Mayor and Councillors have access to all relevant Council employees necessary to assist with exercising their civic roles.

6. POLICY RESPONSIBILITIES:

- 6.1 The General Manager, Group Managers and Section Managers are responsible for the implementation and compliance of the policy.

6.2 The Governance Section Manager is responsible for implementation, compliance, monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Local Government 1993
- 7.2 Government Information (Public Access) Act 2009
- 7.3 State Records Act 1998
- 7.4 Copyright Act 1968 (Cth)
- 7.5 Independent Commission Against Corruption Act 1988
- 7.6 Code of Conduct

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2011-02442	EDRMS record No	19/150796
Audience	Elected Council and Council employees.		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two years	Next review date	March 2021
Adoption date	24 September 2013		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	24/09/2013	Executive Officer	Adopted by Council	275
2.0	23/09/2014	Executive Officer	Adopted by Council	242
3.0	09/02/2016	Governance Manager	Transferred into the new policy template and corporate branding. Minor wording amendments.	022
3.1	13/02/2018	Governance Manager	Minor administrative updates to clarify when the policy is applicable under Mayor/Councillor request section.	017
3.2	28 May 2019	Governance Section Manager.	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner. 3.3 – added ‘but not limited to’ and ‘legislation’ deleting ‘provisions’. 3.10 – updated Councillor support title. 3.21 – updated unacceptable behaviours to reflect the new Code of Conduct. 6.2 – updated Section Manager title.	112