

<b>Name of Policy:</b>	<b>Councillor and Staff Interaction</b>		
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<b>Related legislation:</b>	<i>Local Government Act 1993</i>  <i>Local Government (General) Regulations 2021</i>  <i>Government Information (Public Access) Act 2009</i>		
<b>Associated policies / documents:</b>	<b>Code of Conduct</b>		
<b>Responsible department:</b>	<b>Corporate Services</b>		

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## **Part 1 – Introduction**

- 1.1 *The Councillor 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.
- 1.2 The Policy complements and should be read in conjunction with MidCoast Council's *Code of Conduct* (the Code of Conduct).
- 1.3 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 the 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.
- 1.4 It is important to have an effective working relationship that recognises the important but differing contribution both parties bring to their complementary roles.

## **Part 2 – Application**

- 2.1 This Policy applies to all councillors and council staff.
- 2.2 This Policy applies to 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.
- 2.3 This Policy applies whenever interactions between councillors and staff occur, including inside or outside of work hours, and at both council and non-council venues and events.
- 2.4 This Policy does not confer any delegated authority upon any person. All delegations to staff are made by the General Manager.
- 2.5 The 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 a breach of the Code of Conduct.

## **Part 3 - Policy Objective**

- 3.1 The objectives of the Policy are to:
  - a) establish positive, effective and professional working relationships between councillors and staff defined by mutual respect and courtesy
  - b) enable councillors and staff to work together appropriately and effectively to support each other in their respective roles
  - c) ensure that councillors receive advice in an orderly, courteous and appropriate manner to assist them in the performance of their civic duties

- d) ensure councillors have adequate access to information to exercise their statutory roles
- e) provide direction on, and guide councillor interactions with, staff for both obtaining information and in general situations
- f) maintain transparent decision making and good governance arrangements
- g) ensure the reputation of Council is enhanced by councillors and staff interacting consistently, professionally and positively in their day-to-day duties
- h) provide a clear and consistent framework through which breaches of the Policy will be managed in accordance with the Code of Conduct.

#### **Part 4 – Principles, roles and responsibilities**

- 4.1 Several factors contribute to a good relationship between councillors and staff. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.
- 4.2 The Council's governing body and its administration (being staff within the organisation) must have a clear and sophisticated understanding of their different roles, and the fact that these operate within a hierarchy. The administration is accountable to the General Manager, who in turn, is accountable to the Council's governing body.
- 4.3 Section 232 of the *Local Government Act 1993* (the LGA) states that 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.
- 4.4 The administration's role is to advise the governing body, implement Council's decisions and to oversee service delivery.
- 4.5 It is beneficial if the administration recognises the complex political environments in which elected members operate and acknowledge that they work within a system that is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on the very wide range of issues that Council operations cover.
- 4.6 Council commits to the following principles to guide interactions between councillors and staff:

<b><u>Principle</u></b>	<b><u>Achieved by</u></b>
<b>Equitable and consistent</b>	Ensuring appropriate, consistent and equitable access to information for all councillors within established service levels
<b>Considerate and respectful</b>	Councillors and staff working supportively together in the interests of the whole community, based on mutual respect and consideration of their respective positions
<b>Ethical, open and transparent</b>	Ensuring that interactions between councillors and staff are ethical, open, transparent, honest and display the highest standards of professional conduct
<b>Fit for purpose</b>	Ensuring that the provision of equipment and information to councillors is done in a way that is suitable, practical and of an appropriate size, scale and cost for a client group of eleven people.
<b>Accountable and measurable</b>	Providing support to councillors in the performance of their role in a way that can be measured, reviewed and improved based on qualitative and quantitative data

4.7 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 LGA. Councillors need to accept that:

- a) responses to requests for information from councillors may take time and consultation to prepare and be approved prior to responding
- b) staff are not accountable to them individually
- c) 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 LGA
- d) 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
- e) they must not contact a member of staff on council-related business unless in accordance with this Policy
- f) they must not use their position to attempt to receive favourable treatment for themselves or others.

4.8 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 need to understand:

- a) 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
- b) 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
- c) 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
- d) they must ensure that participation in political activities outside the service of the Council does not interfere with the performance of their official duties
- e) they must provide full and timely information to councillors sufficient to enable them to exercise their civic functions in accordance with this Policy.

## **Part 5 – The councillor requests system**

- 5.1 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.
- 5.2 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.
- 5.3 The General Manager may identify Council support staff under this Policy for the management of requests from councillors. Refer Attachment A for details of those staff.
- 5.4 Councillors can use the councillor requests system to:
  - a) request information or ask questions that relate to the strategic position, performance or operation of the Council
  - b) bring concerns that have been raised by members of the public to the attention of staff
  - c) request ICT or other support from the Council administration
- 5.5 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.
- 5.6 Staff must make every reasonable effort to assist councillors with their requests and do so in a respectful manner.
- 5.7 The General Manager or the staff member authorised to manage a councillor request will provide a response within 10 business days. Where a response cannot be provided within

that timeframe, the councillor will be advised, and the information will be provided as soon as practicable.

- 5.8 Councillors are required to treat all information provided by staff appropriately and to observe any confidentiality requirements.
- 5.9 Staff will inform councillors of any confidentiality requirements for information they provide so councillors can handle the information appropriately.
- 5.10 Where a councillor is unsure of confidentiality requirements, they should contact the General Manager, or the staff member authorised to manage their request.
- 5.11 The General Manager may refuse access to information requested by a councillor if:
  - a) the information is not necessary for the performance of the councillor's civic functions, or
  - b) if responding to the request would, in the General Manager's opinion, result in an unreasonable diversion of staff time and resources, or
  - c) the councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it, or
  - d) the General Manager is prevented by law from disclosing the information.
- 5.12 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.
- 5.13 Where a councillor's request for information is refused by the General Manager on the grounds referred to under clause 5.12 (a) or (b), 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 under clause 5.12 (c) or (d).
- 5.14 Nothing in clauses 5.12, 5.13, and 5.14 prevents a councillor from requesting the information in accordance with the *Government Information (Public Access) Act 2009*.
- 5.15 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.
- 5.16 Councillor requests are state records and must be managed in accordance with the *State Records Act 1998*.

## **Part 6 – Access to Council staff**

- 6.1 Councillors may directly contact members of staff that are listed in Attachment A to Schedule 1 of this Policy. The General Manager may amend this list at any time and will advise councillors promptly of any changes.
- 6.2 Councillors can contact staff listed in Attachment A to Schedule 1 about matters that relate to the staff member's area of responsibility.

- 6.3 Councillors should as far as practicable, only contact staff during normal business hours.
- 6.4 If councillors would like to contact a member of staff not listed in Attachment A to Schedule 1, they must receive permission from the General Manager.
- 6.5 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.
- 6.6 The General Manager or a member of the Council's executive leadership team may direct any staff member to contact councillors to provide specific information or clarification relating to a specific matter.
- 6.7 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 or Mayor in the first instance, or alternatively to the Office of Local Government, NSW Ombudsman, or the NSW Independent Commission Against Corruption.

## **Part 7 – Councillor access to council buildings**

- 7.1 Councillors are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of Council's buildings during normal business hours for meetings. Councillors needing access to these facilities at other times must obtain approval from the General Manager.
- 7.2 Councillors must not enter staff-only areas of Council buildings without the approval of the General Manager.

## **Part 8 – Appropriate and inappropriate interactions**

- 8.1 Examples of appropriate interactions between councillors and staff include, but are not limited to, the following:
  - a) councillors and council staff are courteous and display a positive and professional attitude towards one another
  - b) 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
  - c) council staff record the advice they give to councillors in the same way they would if it was provided to members of the public
  - d) council staff, including Council's executive team members, document councillor requests via the councillor requests system
  - e) 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



- f) councillors and council staff feel supported when seeking and providing clarification about council related business
- g) councillors forward requests through the councillor requests system and staff respond in accordance with the timeframes stipulated in this Policy

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

- a) councillors and council staff conducting themselves in a manner which:
  - i) 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
  - ii) constitutes harassment and/or bullying within the meaning of the Code of Conduct, or is unlawfully discriminatory
- b) 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
- c) 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
- d) subject to clause 5.12, staff refusing to give information that is available to other councillors to a particular councillor
- e) councillors who have lodged an application with the council, discussing the matter with staff in staff-only areas of the council
- f) councillors being overbearing or threatening to staff
- g) staff being overbearing or threatening to councillors

## **Part 9 – Complaints**

- 9.1 Complaints about a breach of this policy should be made to the General Manager (if the complaint is about a councillor or member of council staff), or the Mayor (if the complaint is about the General Manager).
- 9.2 Clause 9.1 does not operate to prevent matters being reported to OLG, the NSW Ombudsman, the NSW Independent Commission Against Corruption or any other external agency.

## **Schedule 1 – Authorised staff contacts for councillors (template table)**

1. Clause 6.1 of this Policy provides that councillors may directly contact members of staff that are listed on the following Attachment. The General Manager may amend this list at any time.
2. Councillors can contact staff listed about matters that relate to the staff member's area of responsibility.
3. Councillors should as far as practicable, only contact staff during normal business hours.
4. If councillors would like to contact a member of staff not listed below, they must receive permission from the General Manager or their delegate.
5. 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.
6. In some instances, the General Manager or a member of the Council's executive leadership team may direct a council staff member to contact councillors to provide specific information or clarification relating to a specific matter.
7. Councillors can contact staff that oversee internal committees where the contact is in relation to the functions of the committee.

## Attachments

### A. Nominated Staff Authorised to Interact with Councillors

<b>GENERAL MANAGER</b>
Executive Assistant (General Manager)
Executive Assistant (Mayor)
<b>CORPORATE SERVICES</b>
Director Corporate Services
Chief Strategy and Performance Manager
Manager Governance
Manager Finance
Corporate Performance and Development Coordinator
Manager Information Technology
Manager Human Resources
Governance Coordinator
Corporate Support Officers
<b>LIVEABLE COMMUNITIES</b>
Director Liveable Communities
Executive Assistant
Executive Manager Liveability and Sustainable Development
Executive Manager Community Spaces
Manager Libraries and Community Services
Manager Growth, Economic Development and Tourism
Manager Engagement, Communication and Education
Manager Natural Systems
Manager Waste

<b>INFRASTRUCTURE AND ENGINEERING SERVICES</b>
Director Infrastructure and Engineering Services
Executive Assistant
Executive Manager Transport and Engineering
Executive Manager Water and Systems
Manager Transport Assets
Manager Projects and Engineering
Manager Operations North
Manager Operations South
Manager Water Planning and Assets
Manager Water Project Delivery
Manager Water Operations
Manager Water Management and Treatment

*Notes:*

- 1. The General Manager may amend this list of nominated officers from time to time to reflect changes to positions.*
- 2. Should a Council officer be acting in any of the nominated positions included in this schedule, the person so acting will be a nominated officer unless otherwise determined by the General Manager.*