

CEO Protocol for Councillor and Staff Interaction

TRIM Reference: D23/160796 Due for Review: October 2028
 Responsible Officer: Chief Executive Officer

Purpose

1. This Protocol has been developed to support Councillors and Council staff by providing a structure and framework to guide the way that they interact while performing their respective roles as established under the *Local Government Act 2020* (the Act).
2. The organisation is committed to working together with Councillors in a positive and constructive way, and ensuring that all Councillors and Council staff are supported and equipped to perform their roles.

Policy Principles

3. This Protocol serves as a key accountability mechanism to safeguard the integrity of Council operations and decision making, by requiring transparent and appropriate interactions between Councillors and Council staff.
4. While Councillors and Council staff all work together to achieve the same outcomes for the benefit and wellbeing of the municipal community, in line with the strategic direction established by Council and other legislated requirements, Councillors and Council staff have separate and distinct roles and responsibilities.
5. This Protocol puts measures in place to ensure that staff are not being directed or influenced by Councillors, and ensures that Councillors have equal access to all information and resources that they require to perform their roles. This enables Council operations and decision making to proceed in line with legislated requirements, community expectations, and good governance best practice.

Scope

6. This Protocol applies to all Councillors and Council staff, including volunteers and contractors and should be read in conjunction with the Model Councillor Code of Conduct and the Staff Code of Conduct.

Objectives

7. The CEO has developed this Protocol to meet the following objectives:

Objective	Measures
To support Councillors to fulfil the role of a Councillor pursuant to the Act	<ul style="list-style-type: none"> • Ensuring Councillors have access to advice, information and documentation to help them to fulfil their roles in an effective manner. • Incorporating good governance principles to information-sharing, including transparency, accessibility and accountability. • Supporting Councillors to conduct themselves with integrity as outlined in Part 6 of the Act, and in particular: <ul style="list-style-type: none"> - Section 123 (Misuse of Position) - Section 124 (Directing Council Staff) - Section 125 (Confidential Information)

<p>To support customers to receive efficient and timely processing of requests for information, service requests and operational matters that they may choose to submit via Councillors.</p>	<ul style="list-style-type: none"> • Enabling staff to respond to customers issues or concerns raised via Councillors, without creating the perception of preferential treatment. • Providing Councillors with confidence that the issue raised will be acknowledged, and will be managed or processed in accordance with the appropriate legislation, regulation or Council policies.
<p>To support the CEO and staff in fulfilling their roles.</p>	<ul style="list-style-type: none"> • Supporting staff to avoid disclosures of information that may breach privacy or confidentiality obligations of Council; • Providing a safe and healthy work environment free from repetitive or unreasonable communication or examination by Councillors; • Enabling staff in the discharge of obligations and responsibilities pursuant to their delegated authority; and • Supporting Authorised Officers to fulfil their roles in accordance with relevant legislation.

Nature of interactions

8. All communication between Council staff and Councillors must always be courteous and respectful and in line with the Shire’s values and the respective codes of conduct.
9. It is acknowledged that Councillors and staff may have relationships outside of a Council setting. This may include pre-existing personal relationships, as well as connections made through various community roles and activities or other employment channels.
10. Where a pre-existing relationship is present between a Councillor and a member of Council staff, all parties involved should be mindful that it is not appropriate to use these relationships to access Council information or to seek to influence the work undertaken by officers, or Council decisions.
11. In managing personal relationships between Councillors and Council staff, all individuals involved must also adhere to their statutory responsibilities. These include, but are not limited to, conflicts of interest and confidentiality requirements.

Requests for Information

12. All requests for information should be made through the Councillor Portal (unless the request is where the Councillor is a customer). The portal has been designed to be the primary channel for written requests from Councillors to staff. Councillors are expected to use the Portal wherever possible.
13. If requests for information come through other channels, staff will redirect the request to the Portal and respond via the Portal. When contacting staff outside of the portal process, Councillors must be mindful of ‘Specific Interaction Protocols’ (page 4).
14. Staff are committed to providing Councillors with the information necessary to effectively undertake their role, and to ensuring Councillors all have access to the same information. This is to be distinguished from circumstances where Councillors are seeking information as a matter of interest, in which case they have the same rights as any member of the public.
15. Where a decision is to be made by Council through resolution, it is essential that Councillors have all relevant information to assist their consideration and decision-making. Officers will provide this through a report or attachment to a report in the Council meeting agenda.

16. It is not uncommon for Councillors to request access to documents or copies of documents that relate to operational matters or decisions made by officers under their delegated authorities or as Authorised Officers. While Councillors are not prevented from broadly seeking information relating to these matters, such requests will be considered by the CEO on a case by case basis. The provision of such information is more likely to be appropriate where the matter is of high community interest or has attracted media attention.
17. Members of the community may request service, support or information about a range of issues. Councillors and Council officers must meet their respective obligations to maintain probity, including adherence to privacy principles, in responding to such requests at all times.
18. The majority of information requests between Councillors and staff can be summarised as follows:

Description	Process
Requests for service where the Councillor is the customer (eg. the councillor needs a new bin).	<ul style="list-style-type: none"> • Requests can be lodged online, by email or via phone, as per any customer request. • Requests can also be lodged via the Councillor Portal, as 'private and confidential' (these requests will not be visible to other councillors). • These requests are processed in accordance with standard customer request timelines and do not receive any additional priority.
Requests for information as a Councillor (may be a specific or general Council matter).	<ul style="list-style-type: none"> • The request should be lodged via the Councillor Portal for shared understanding. • Information will be provided in accordance with the principles and flowchart as per Appendix 2.
Request for information on behalf of a customer (may include a request for information or action)	<ul style="list-style-type: none"> • Councillors are encouraged to assist customers to contact Council directly in the first instance; • If the customer is unable to contact the Council, the Councillor may lodge the request on their behalf, via the Councillor Portal, and Council staff can then respond to the customer. • If the Councillor withholds the customers details, the Councillor will be responsible for the advising the customer of the relevant information and processes¹.

Specific Interaction Protocols

The following protocols apply equally to Councillors and staff. If the protocols do not specifically address a situation faced by a Councillor or staff member, then advice should be sought from the CEO or relevant General Manager.

19. It is acknowledged that there will be times where Councillors need to contact staff directly for matters which are not requests for information. These will generally be requests for advice or clarification of specific matters.
20. Notwithstanding the general requirement that requests for information be made through the portal, where requests relate to personal or sensitive information, or matters of legal significance, these should be directly passed on to the appropriate officer in the first instance.

¹ If the Councillor withholds the customers details, the Councillor will be responsible for the advising the customer: (i) officers will respond to the Councillor as if they are a general member of the public, (ii) Councillors are expected to inform the customer that Council will have no record of the customer in relation to the request or response and so cannot provide any further or follow-up advice, (iii) That the Council has no record of them in relation to the request or response and will be not able to assist with further clarification or follow-up.

21. Councillors must never seek to influence the work of officers, including the information provided in officer reports and recommendations for Council meetings. The report and its recommendation are the responsibility of the approving officer and reflect their professional knowledge and assessment of the relevant issues. To support this, interactions between Councillors and staff with regard to information or clarification of Council reports will occur via discussion at Councillor briefing sessions or via the Portal where information can be shared by all Councillors. Staff should report any breaches of this requirement to the CEO or relevant General Manager.
22. Councillors and staff from the following list may directly contact each other in the performance of their roles:
 - Chief Executive Officer
 - All General Managers
 - All Managers
 - Coordinator Governance and Council Business
 - Coordinator Communications and Community Engagement
 - Team Leader Communications
 - Communications Officer Mayor and Councillors
 - Executive Assistant to Mayor
 - Executive Assistant to CEO

The organisation chart and contact details are available on the Councillor Portal.

23. The following officers may contact Councillors directly at the request of members of the Executive Management Team or to provide acknowledgement or reference to service requests for the information of Councillors:
 - Executive Assistants to General Managers
 - Administration Officers
24. The following officers may contact Councillors directly for administrative matters associated with the performance of their roles.
 - Governance officers
 - Communications officers
25. Staff other than those listed above are to advise their Manager if a Councillor has contacted them without the prior approval of their relevant Manager or General Manager. Correspondingly, staff should not seek to make direct contact with Councillors without their Manager's consent.
26. To support the principles and requirements of this Protocol, Councillor access to the Civic Office is limited to the spaces between the Bellbrae meeting room and the public foyer, including the Councillor lounge, Council Chambers and the CEO's office unless expressly invited into another space by the CEO.
27. Where a Councillor wishes to attend a Council facility in an official capacity, including facilities which may be under construction or maintenance, they should first consult with the CEO. This will enable the CEO to put appropriate measures in place for the visit, noting that Council staff and/or contractors are likely to be on site at these facilities.

Council Committees and Working Groups

28. Volunteers, including members of Council committees, are required to comply with the requirements of this Protocol when acting in their volunteer capacity.
29. Members of groups such as Community Asset Committees have strong ties in the community and will often advocate to Councillors directly in relation to matters of community interest. While this kind of advocacy relationship is no uncommon in this context, it is important that all committee requests and issues are directed through the appropriate Council channels as described in the relevant Instrument of Delegation or equivalent authorising instrument.
30. There will be occasions where Councillors and staff will be required to interact with each other whilst Councillors are serving as committee members on various Council appointed committees and working groups. Information in relation to the relevant committees should be exchanged in accordance with the guidelines or charters of those committees. Information about Council matters requested by a Councillor which falls outside of scope of information for the relevant committee should be directed through the Councillor Portal.

Legislative Context

31. This protocol has been developed and implemented by the CEO in accordance with section 46(3)(c) of the Act, which states that the CEO is responsible for '*managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements between members of Council staff and Councillors are developed and Implemented*'.
32. Compliance with this protocol is also mandated under the Model Councillor Code of Conduct². Failure to comply with this protocol is a serious matter and may result in formal proceedings in accordance with the processes and mechanisms of the Councillor Conduct Framework, and may also constitute an indictable offence.
33. The [Staff Code of Conduct](#) requires Council staff to comply with all organisational policies and procedures. Failure by staff to comply with this Protocol will constitute a breach of the staff Code of Conduct and may result in disciplinary action.
34. The role of a Council, a Councillor and the CEO are all defined in the Act and are extracted at **Appendix 1**.

Confidential Information

35. Councillors are responsible for understanding what information is deemed to be confidential information under section 3 of the Act. While staff will always endeavour to appropriately label confidential information, the failure to do so does not exempt Councillors from their obligations if they know, or should reasonably know, that the information is confidential. Disclosure of confidential information in these circumstances constitutes 'serious misconduct' as defined in the Act.
36. Councillors should be aware that any information provided to staff will become an official Council record and will be managed accordingly. Councillors may choose to designate a communication as 'confidential', 'private' or 'not for distribution'. While this is an acceptable method of identifying the sensitivity of the document to the recipient, it is not appropriate to further direct staff as to the management of this information.
37. Staff are required to handle all sensitive information with discretion, and in line with legislative and policy requirements. A staff member receiving a communication from a Councillor which has been identified as confidential will consult with the CEO regarding the appropriate management of this information.

² The Model Code of Conduct can be located in Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*.

38. The CEO should not withhold a purportedly confidential communication received directly or indirectly from a Councillor where it is in the Council's interests that other Councillors, Council staff or relevant stakeholders should be aware of some or all of the information.
39. It is noted that the requirements and processes outlined in this section do not refer to Public Interest Disclosures made in accordance with the *Protected Disclosure Act 2012*. For more information on Public Interest Disclosures, including the protections which apply, please refer to Council's [Public Interest Disclosure Procedures](#).

Councillor Involvement in Enforcement Matters and Complaints

40. In accordance with section 124 of the Act, Councillors must not direct or seek to direct a member of Council staff in the exercise of a delegated power, or the performance of a delegated duty or function of the Council. Councillors can still assist members of the community as follows:
 - a. Where members of the community seek support in relation to a decision made by an Authorised Officer, Councillors should refer the community to the relevant staff to ensure that customer is supported to understand their appeal rights and processes.
 - b. Where members of the community seek support in relation to the manner in which a staff member has behaved or conducted themselves in relation to the community member, Councillors should refer the person to Council's formal Complaints policy and process and inform the CEO.
41. While a Councillor may convey a request for enforcement or raise a matter under investigation, involvement by elected representatives in any stages of matters of investigation and enforcement must not occur.
42. The Council makes delegations and authorisations to various staff who must objectively and professionally investigate and enforce various legislation including, but not limited to, *Domestic Animals Act 1994*, *Environment Protection Act 1970*, *Food Act 2010*, *Health Act 1958*, *Planning and Environment Act 1987*, *Road Safety Act 2017* and Council's Local Laws.
43. Delegated and authorised officers must be able to perform investigation, determination of response, management of infringements and prosecutions in a manner that is free of improper direction or improper influence.
44. Consideration of appeals against the infringement notices will be reviewed in accordance with the relevant guidelines published by the Attorney-General and the internal appeals procedure. Councillors must therefore not involve themselves in matters of investigation and enforcement in a manner that may give rise to a conduct breach and implicate the proceedings.
45. The *Compliance and Enforcement Protocol* that guides staff undertaking this work is available on the Councillor Portal.
46. Council has adopted a Complaints Policy, with complaints being processed in accordance with the Complaints Handling – Management Policy and Procedure. This provides an open and transparent complaint handling system which ensures all complaints are handled fairly and objectively.
47. Councillors must not seek to influence officers as they address complaints through this process. Where it is appropriate to provide Councillors with updates on matters relating to enforcement or complaints, these will be provided via the Councillor portal.

Planning and Environment Act Roles

48. The Council has significant responsibilities under the *Planning and Environment Act 1987*. It is important that Councillors are supported to participate through their statutory roles and that the decision making of the Council is not tarnished by perceptions of bias, predetermination, inappropriate direction or inappropriate influence.

49. Councillors should seek to understand specific issues or seek relevant information at a briefing session where possible to enable all Councillors to have a shared understanding of matters that might come before them at a future meeting.

Local Government Act 2020 Principles

Principles	Applicable to policy	If yes, provide details
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	In particular, section 9(2)(i) which states 'the transparency of Council decisions, actions and information is to be ensured.' This protocol has been designed to protect the integrity of the Council decision making process, and to maximise the transparency of the associated interactions and processes.
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	No	
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	Yes	In particular, section 58(a) states 'Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act'. Having a strong framework around Councillor and Staff interactions, including a dedicated information sharing portal, maximises the transparency of these processes.
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No	
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	No	
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	No	

Definitions

Refer Appendix 1.

References

Local Government Act 2020
 Local Government (Governance and Integrity) Regulations 2020 (inc Councillor Code of Conduct)
 Planning and Environment Act 1987
 Staff Code of Conduct

Appendix 1 – Roles and Responsibilities as defined under the *Local Government Act 2020*.

The Role of a Council – section 8

1. The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.
2. A Council provides good governance if –
 - a. it performs its role in accordance with section 9;
 - b. the Councillors of the Council perform their roles in accordance with section 28.
3. In performing its role, a Council may –
 - a. perform any duties or functions or exercise any powers conferred on a Council by or under this Act or any other Act; and
 - b. perform any other functions that the Council determines are necessary to enable the Council to perform its role.
4. If it is necessary to do so for the purpose of performing its role, a Council may perform a function outside its municipal district.

The Role of the Mayor – section 18

1. The role of the Mayor is to—
 - a. chair Council meetings; and
 - b. be the principal spokesperson for the Council; and
 - c. lead engagement with the municipal community on the development of the Council Plan; and
 - d. report to the municipal community, at least once each year, on the implementation of the Council Plan; and
 - e. promote behaviour among Councillors that is consistent with the Model Councillor Code of Conduct; and
 - f. assist Councillors to understand their role; and
 - g. take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
 - h. provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
 - i. perform civic and ceremonial duties on behalf of the Council.
2. The Mayor is not eligible to be elected to the office of Deputy Mayor.
3. To avoid doubt, reasonable steps taken by a Mayor carried out in a reasonable manner to perform their role in accordance with subsection (1)(e) or (f) is not bullying.

The role of the Deputy Mayor – section 21

The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if –

- a. the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- b. the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- c. the office of Mayor is vacant.

The Role of a Councillor – section 28

1. The role of every Councillor in representing their municipal community includes the following –
 - a. to participate in the decision making of the Council;
 - b. to represent the interests of the municipal community in that decision making;
 - c. to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.
2. In performing the role of a Councillor, a Councillor must –
 - a. consider the diversity of interests and needs of the municipal community; and
 - b. support the role of the Council; and
 - c. acknowledge and support the role of the Mayor; and
 - d. act lawfully and in accordance with the oath or affirmation of office; and
 - e. act in accordance with the Model Code of Conduct; and

- f. comply with Council procedures required for good governance.
3. The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.

Functions of the Chief Executive Officer – section 46

1. A Chief Executive Officer is responsible for—
 - a. supporting the Mayor and the Councillors in the performance of their roles; and
 - b. ensuring the effective and efficient management of the day to day operations of the Council.
2. Without limiting the generality of subsection (1)(a), this responsibility includes the following—
 - a. ensuring that the decisions of the Council are implemented without undue delay;
 - b. ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;
 - c. supporting the Mayor in the performance of the Mayor's role as Mayor;
 - d. setting the agenda for Council meetings after consulting the Mayor;
 - e. when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
 - f. carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Workplace Injury Rehabilitation and Compensation Act 2013*.
3. Without limiting the generality of subsection (1)(b), this responsibility includes the following –
 - a. establishing and maintaining an organisational structure for the Council;
 - b. being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
 - c. managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented;
 - d. performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.
4. For the purposes of subsection (3)(a), a Chief Executive Officer must –
 - a. develop and maintain a workforce plan that –
 - i. describes the organisational structure of the Council; and
 - ii. specifies the projected staffing requirements for a period of at least 4 years; and
 - iii. sets out measures to seek to ensure gender equality, diversity and inclusiveness; and
 - b. inform the Council before implementing an organisational restructure that will affect the capacity of the Council to deliver the Council Plan; and
 - c. consult members of Council staff affected by a proposed organisational restructure, before implementing the organisational restructure.
- 4A. In developing and maintaining a workforce plan, a Chief Executive Officer must have regard to the requirements of the *Gender Equality Act 2020*.
- 4B. A Council's workforce plan is taken to satisfy subsection (4)(a)(iii) in respect of gender equality during any period when the Council is compliant with Division 1 of Part 4 of the *Gender Equality Act 2020*.
5. A Council and the Chief Executive Officer must, in giving effect to gender equality, diversity and inclusiveness, comply with any processes and requirements prescribed by the regulations for the purposes of this section.
6. A Chief Executive Officer must ensure that the Mayor, Deputy Mayor, Councillors and members of Council staff have access to the workforce plan.
7. A Chief Executive Officer must develop the first workforce plan under this section within 6 months of the commencement of this section.

Appendix 2 – Information Request Flowchart

