

COUNCIL POLICY



TITLE:	COUNCILLOR AND STAFF INTERACTIONS POLICY
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DEPARTMENT:	CEO
UNIT:	CEO Department
RESPONSIBLE OFFICER:	Chief Executive Officer

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1. References

Councillor Model Code of Conduct
Governance Rules (including the Election Period Policy)
Glenelg Shire Council Media Policy (DocSetID: 1454922)
Glenelg Shire Council Staff Code of Conduct (DocSetID: 1706557)
Glenelg Shire Council Confidentiality Policy
Glenelg Shire Council, Records Management Policy (DocSetID: 1933907)

Local Government Act 1989
Local Government Act 2020
Privacy and Data Protection Act 2014
Equal Opportunity Act 2010
Occupational Health and Safety Act 2004

2. Purpose

The purpose of this Policy is to provide guidance and support for the interactions between Councillors and Council staff in the performance of their duties. It complements the Model Councillor and Staff Codes of Conduct and supports compliance with the *Local Government Act 1989* and *Local Government Act 2020* (the Act).

This Policy outlines how Councillors can get the information they need to perform their role in a timely manner and through the appropriate channels.

The objectives of this policy are to:

- recognise the respective roles and responsibilities of Councillors and Council members of staff, in particular the Chief Executive Officer (CEO),
- assist Councillors and members of Council staff in respecting the roles and responsibilities of others in the organisation
- maintain transparent decision making and governance arrangements
- ensure regular communications to enable informed review and discussion of Council's performance.
- support compliance within the provisions of the *Local Government Act 2020*
- recognise the responsibilities of the Council in ensuring that it meets the responsibilities of the *Occupational Health and Safety Act 2004* and the *Equal Opportunity Act 2010* to protect people from risks to their health and safety including harassment, bullying, violence and discrimination.

3. Scope

This Policy applies to all Councillors and Council staff of the Glenelg Shire Council.

4. Council Policy

The Glenelg Shire Council is responsible for the adoption, application and operation of this Policy.

The functions of the CEO are defined in section 46 of the *Local Government Act 2020*, which provides that the CEO is responsible for the day-to-day operations of Council and states that the Chief Executive Officer (CEO) is responsible for: “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”.

This means that Councillors are not responsible for implementing Council decisions, and do not have authority to direct Council employees (other than the CEO). This section of the Act supports the facilitation of effective administration and avoids staff being subject to conflicting directions.

Clear lines of managerial authority are critical. This does not prohibit Councillors from expressing their views about administration matters or implementation, however this must be undertaken through the CEO.

Under the *Local Government Act 2020*, Councillors are not to improperly direct or interact with Council staff. Subsequently, Councillor obligations include that they:

- accept that their role is one of strategy and policy development and leadership, as opposed to management or administration
- acknowledge that they do not have a role to instruct or direct or approach staff on any matters pertaining to the performance of their duties
- acknowledge that they are not responsible for implementing Council actions
- acknowledge that under the *Local Government Act 2020* they have no capacity to individually direct Council officers to perform or not perform particular functions
- will not use their position to improperly influence members of staff in their duties or functions to gain advantage for themselves or others or to cause detriment to others
- respect the role of members of staff and treat them in a way that engenders mutual respect at all times
- acknowledge the professional obligation members of staff have to give advice based on their knowledge and experience and to write reports and recommendations in a professional, objective and unbiased way

- act with courtesy towards all Council employees and avoid intimidatory behaviour
- refrain from publicly criticising Council staff in a way that casts doubt on their professional competency or credibility.

Councillors should advise the CEO in a timely fashion of any concerns that they may have with any member of staff.

4.1 General Provisions

In their capacity as elected representatives of the municipal community, Councillors may have a need to request advice and /or information on a variety of matters.

A large amount of information required for Councillors to perform their roles will be provided through Council Meetings and Briefing Agendas, Councillor Updates, Councillor SharePoint channels and via Council's public website.

However, it is recognised that the responsibility Councillors have to represent their municipal community, and in achieving the strategic priorities of the municipal community, means they may require access to other information and resources.

The Council employs the CEO, and the CEO is responsible for the operations of the organisation. Therefore, Councillors' primary point of communication is via the office of the CEO.

The CEO is responsible for the determination of the appropriate allocation of Council resources required to best support the Mayor and Councillors to undertake their roles. This includes the nomination of Council staff to provide support to the Mayor and Councillors.

The CEO manages 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.

Councillors will also have the opportunity to interact with Council staff through a range of settings including Council Meetings and Briefing Sessions. Councillors must not approach any member of Council staff directly for advice or information without the prior consent of the CEO.

Except for general and polite conversation, Councillors should not be approaching Council staff directly to raise issues or seek information. Councillors are prohibited from directing or seeking to influence the decision of a member of Council staff and contact with other Council staff will only be permitted in accordance with this Policy.

Where possible, communication with the CEO should be via email. This allows for appropriate record keeping in accordance with the relevant legislation and will assist Council to comply with its privacy obligations under the *Privacy and Data Protection Act 2014* and the *Freedom of Information Act 1982*.

Communication between Council staff and Councillors regarding Council business, or in an official Council capacity, should not be conducted using private email addresses or phone numbers.

4.2 Communication Channels

Councillors may receive advice, information and support to assist them in carrying out their official Councillor duties. If a request from a Councillor relates to matters which are of a whole of Council significance or relevance, then a reply will be sent to all Councillors.

All communication in relation to matters, including requests for information, which relate to confidential information must go through the CEO.

It is appropriate for Councillors to directly contact the Councillor Support Officer in relation to their roles and responsibilities and general enquiries relating to things such as expense claim forms and calendar invitations/management.

All communication, including requests for information, must be sent to councillor.support@glenelg.vic.gov.au, this will ensure all requests are centrally received by Council and these requests are lodged in Council's electronic records management system.

Councillors may also directly communicate with the appointed Councillor Conduct Officer for issues and questions in relation to Councillor Conduct Matters, Applications for an Internal Arbitration Process and Applications for a Councillor Conduct Panel, and issues or questions in relation to the Model Councillor Code of Conduct or this Policy. The Councillor Conduct Officer for Glenelg Shire is the Director Corporate Services

It is acknowledged that although Councillors, the CEO and the Councillor Support Officer may contact each other via email outside of business hours due to work and other commitments, the recipient is not expected to read or respond to the correspondence outside of business hours.

4.3 Responses to Councillors

If a request from a Councillor relates to matters which are of a whole of Council significance or relevance, then a reply will be sent to all Councillors through a Councillor update.

Where possible, the CEO will clearly identify information which is Confidential Information to assist Councillors in the appropriate handling of such information, however it is the Councillors responsibility to ensure they use the information in an ethical manner in accordance with the requirements of the Act.

Attachments may also be uploaded into the relevant folder on the Councillor SharePoint channel, and Councillors advised of its availability.

4.4 Councillor Requests and responses to community members

Occasionally, community members will contact Councillors with concerns relating to Council operations. Councillors should refer the member of the community to contact Council through enquiry@glenelg.vic.gov.au or attend any of the Shire's Customer Service Centres.

Councillors must not commit to a particular outcome, or a response from a particular member of Council staff.

Councillors are required to treat all information provided by staff appropriately and to adhere to any confidentiality requirements. If a Councillor is unsure whether a document or advice contains Confidential Information, they should contact the CEO for clarification prior to releasing the information.

4.5 Information may be declined

When requesting information or the use of resources, including Council staff time, Councillors should consider the size of the request and any likely cost implications in making the request.

Councillors should not make requests where the costs cannot be justified as being in the public interest. If the costs of providing information are likely to impose an unreasonable burden on Council resources, this may lead to the request being denied and the Councillor will be referred by the CEO to consider a Notice of Motion.

Councillors must also take into account the cumulative effect that multiple requests will have on the use of Council resources.

Where a Councillor's request requires the allocation of resources or expenditure of funds not allocated in the Annual Budget, this may lead to the request being denied and the Councillor will be advised by the CEO to consider submitting the request by way of a Notice of Motion.

Some Council information may not be made available to Councillors on the basis that it is not within the ambit of the functions of Council or Councillors or in accordance with Council's privacy obligations. This information includes, but is not limited to:

- issues related to staffing and / or employment matters
- confidential matters not before Council for a decision
- matters where an investigation is ongoing such as an infringement review or insurance claim
- personal information and sensitive information.

Councillors will be advised by the CEO or relevant Director when information cannot be provided and the basis on which it is not provided.

4.6 Enforcement Matters

Involvement by elected representatives in any stages of matters concerning investigation and enforcement must not occur. Council makes delegations and authorisations to various Council staff who must, without fear or favour, investigate and enforce various legislation.

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.

Consideration of appeals against the infringement notices will be reviewed in accordance with the relevant guidelines published 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.

Where members of the community seek support in relation to such matters, they should be referred to the documentation already provided, including relevant staff identified and available to be contacted.

4.7 Questions and Requests for an Improper Purpose

Councillors must not ask questions or make requests for information for an improper purpose. A question or request for information is made for an improper purpose where it:

- is trivial, frivolous, vexatious, or not made in good faith
- is sent to multiple members of Council staff in multiple emails (whether worded identically or not), seeking a different answer to that already provided
- does not relate to Council business, or is not a request from a member of the public
- is perceived to have been made for one or more of the following reasons:
 - to bully, intimidate or harass another person
 - to damage another person's reputation
 - to obtain a political advantage
 - to influence a person in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions.

4.8 Improper or Undue Influence

Councillors are prohibited under section 124 of the Act from improperly directing or influencing Council Staff.

Improper or undue influence can include:

- disrespecting the professional opinion, skills or expertise of staff through intimidatory, bullying, harassing or disrespectful behaviour
- using rank or position to seek information outside the processes outlined in this Policy
- pressuring staff to make a decision outside the formal Council decision making processes
- pressuring staff to provide information, services or assistance to one person, group or part of the community over another, outside a formal decision of Council
- pressuring staff to make a decision to take action outside normal business process timeframes
- pressuring staff to change a recommendation in a Council Report.

4.9 Interaction between Councillors and Staff at Council Facilities

Access is provided for Councillors to the Councillors room and the Mayoral office for the Mayor at the Portland Municipal Offices.

Visits to other Council facilities, other than as a member of the community, are to be prearranged with the CEO.

4.10 Personal Interaction between Councillors and Staff

While this Policy governs the interactions between Councillors and Council Staff, it does not prevent Councillors and Council Staff from communicating generally.

Council staff may communicate with Councillors as residents / ratepayers of Glenelg Shire Council.

From time to time, Councillors and staff may be present at social and community events. In such situations, both parties must refrain from discussing matters relating to Council business.

If a Councillor and a member of Council staff have a personal relationship, they must be mindful of this and ensure any conflicts of interest which arise are declared in accordance with the Act and Council's Governance Rules.

4.11 Contact Contradictory to This Policy

Where any Councillor or staff member has concerns in regard to communications between Councillors and Council staff, the matter will be referred to the CEO.

Council staff are to inform the CEO or their Director, of any communication made directly to them by a Councillor not in accordance with this Policy.

As outlined in the Standards within the Councillor Model Code of Conduct, Councillors are required to diligently and properly comply with this Policy. Accordingly, any alleged contravention of this Policy may be referred to internal arbitration as misconduct.

5. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Information and Data Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

6. Victorian State Legislation Copyright Acknowledgement

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