PENRITH CITY COUNCIL

Policy Document

POLICY NAME
Interaction Between Councillors and Staff Policy

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28 August 2017

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PRC 32

POLICY TYPE
Council Policy

RESPONSIBLE DEPARTMENT
Legal and Governance

RELATED DOCUMENTS
Local Government Act 1993, Model Code of Conduct for Local Councils in NSW 2020, Social Media and Communication Devices Policy

Purpose
The purpose of this policy is to establish an appropriate and effective framework for business related interactions between Councillors and staff.

Policy statement
Interaction between Councillors and staff must comply with the Council's adopted Model Code of Conduct (the Code). While the Code does not prevent Councillors and staff from communicating in a social context, it does impose conduct obligations on Councillors and staff when interacting on Council business.

The Code recognises that it is appropriate for Councillors and staff to discuss policy issues relating to the exercise of Council's regulatory functions, strategic direction and allocation of resources. It does however identify a range of inappropriate interactions which must be avoided by Councillors and staff.

This policy reinforces the obligations of Councillors and staff prescribed by the Code with regard to their interactions and establishes additional obligations where necessary.

Scope
This policy applies to all Council officials including Councillors, Council employees, contractors, members of Council committees, and volunteers of Council.

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1. INTRODUCTION

The Local Government Act 1993 (NSW) (the Act) separates the roles and responsibilities of Councillors and staff, and the Code imposes conduct obligations on Councillors and staff when interacting on Council business.

Councillors and staff need to interact on a regular basis to effectively integrate their policy making and service delivery roles. To assist both parties in carrying out their respective roles and responsibilities, this policy aims to provide direction on the interaction between Councillors and staff.

"The importance of trust and mutual respect within the Council team and between Council and senior management cannot be underestimated. Councillors can have a major and positive impact on the health and well-being of the whole community.

A good working relationship between Councillors, the Mayor, the General Manager and other Council staff is fundamental to an effective council.

Councillors must also have an understanding of how to manage external relationships, with the community, the media and other organisations including State agencies."

"As members of the governing body, and in the interests of ensuring the organisation operates effectively to achieve the best outcomes for the community, Councillors should endeavour to work constructively with Council staff that are responsible for implementing Council decisions."

- Extracts from Councillor Handbook, Office of Local Government, October 2017.

2. THE ROLE OF COUNCILLORS

Councillors have a number of different roles that must incorporate the interests of the whole City and those of their constituents. They play a vital leadership role in creating and implementing the community's vision, strategic direction and values.

Section 223 of the Act outlines the role of the governing body as follows:

a) to direct and control the affairs of the council in accordance with this Act,
b) to provide effective civic leadership to the local community,
c) to ensure as far as possible the financial sustainability of the council,
d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and polices of the council,
e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,
f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
g) to keep under review the performance of the council, including service delivery,
h) to make decisions necessary for the proper exercise of the council's regulatory functions,
i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,
j) to determine the senior staff positions within the organisation structure of the council,

k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,
l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.

Section 232 of the Act outlines the role of a Councillor 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 effort to acquire and maintain the skills necessary to perform the role of a councillor.

3. OBLIGATIONS OF COUNCILLORS

Councillors may need to receive information or advice from Council staff on a range of matters in order to fulfil their civic responsibilities.

The General Manager has authorised selected members of staff to communicate with and provide information to Councillors (refer to Contact List available on the Councillor Portal). The contact list will be updated from time to time as required and Councillors will be advised of those changes as they occur.

Only those members of staff nominated by the General Manager are authorised to provide information to Councillors. However where deemed appropriate, the General Manager, the Chief Governance Officer, Directors, and Managers may nominate alternative staff to communicate with Councillors on their behalf as needed. In those circumstances the nominated staff member should inform the Councillor of that direction and this representation by the staff member is sufficient for the Councillor to rely on.

This policy does not prevent Councillors from contacting secretarial, administration or Information and Communication Technology (ICT) support staff to arrange meetings, discuss minor administrative matters or seek assistance with ICT issues.

In accordance with *Clause 7.2* of the Code, Councillors must not:

- 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 exercising their power under Section 226 of the Act
- 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
- contact a Council staff member on Council related business unless in accordance with this policy governing the interaction between Councillors and Council staff
- contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisors, unless by the Mayor exercising the 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.

4. INAPPROPRIATE INTERACTIONS BY COUNCILLORS

In accordance with Clause 7.6 of the Code, the following interactions by Councillors are inappropriate:

- Councillors approaching staff and staff organisations to discuss individual staff matters and not broader industrial policy issues
- Councillors who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council
- Councillors approaching members of local planning panels or discussing any application that is before the panel or will come before the panel at some future time, except during a panel meeting where the Councillor has a right to be heard
- Councillors being overbearing or threatening to Council staff
- Councillors making personal attacks on Council staff in a public forum
- Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make
- 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, exercising their power under Section 226 of the Act.

  Note: Other than as set out above, this clause does not prevent Councillors from representing the interests of constituents including attending on-site meetings. Councillors should seek advice from the relevant Manager if unsure whether legal proceedings are current or proposed in relation to any matter.

In addition to the Code's conduct obligations, it is Council's policy that the following interactions are inappropriate:

- Councillors approaching staff other than the General Manager, the Chief Governance Officer, Directors or Managers for information on sensitive or controversial matters
- Councillors approaching staff outside the workplace or hours of work to discuss Council business.

5. COUNCILLOR ACCESS TO COUNCIL BUILDINGS

As set out in *Clause 8.25* of the Code, Councillor access to Council buildings is allowed as follows:

- Councillors are entitled to have access to the Council chamber, committee room, Mayor's office, Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors needing access to these facilities at other times must obtain authority from the General Manager.

  Note: It is acknowledged that there will be occasions when Councillors will need after-hours access to the areas of the building mentioned above, and the Civic Centre basement car park, for reasons other than attendance at a meeting. For the purposes of this policy and to meet the requirements of the Code, Councillors have a standing approval from the General Manager to access these areas at any time. To ensure safe evacuation in case of an emergency, Councillors should advise security in advance by email to commsafety@penrith.city by calling 4732 7777, or by informing the security guard on arrival.

- Councillors must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.
- Councillors must ensure that when they are within a staff area, they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

In addition to the Code's provisions, it is Council's policy that the following should also apply:

- Where it is anticipated that Councillors will need to access staff only areas, such as to receive ICT services or to attend meetings with officers, it is expected that Councillors book their attendance in advance with the relevant staff or by contacting the Executive Assistants within the corporate area. It is also expected that, in usual circumstances, these meetings will be held in the areas or meetings rooms designated for Councillor use.

6. THE ROLE OF THE GENERAL MANAGER AND STAFF

The General Manager is responsible for a range of functions including the day to day management of the Council and directing staff.

Under the direction of the General Manager and in accordance with Clause 7.5 of the Code, staff must:

- give their attention to the business of Council while on duty
- ensure that their work is carried out ethically, efficiently, economically and effectively
- carry out reasonable and lawful directions given by any person having authority to give such directions
- give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them
- ensure that any participation in political activities outside the service of the Council does not interfere with the performance of their official duties.

7. INAPPROPRIATE INTERACTIONS BY STAFF

Only staff nominated by the General Manager are authorised to provide information to Councillors (refer to Contact List available on the Councillor Portal). However where deemed appropriate, the General Manager, the Chief Governance Officer, Directors and Managers may nominate alternative staff to communicate with Councillors on their behalf as needed.

In accordance with *Clause 7.6* of the Code, staff must not engage in any of the following inappropriate interactions:

- Council staff approaching Councillors to discuss individual staff matters and other than broader industrial issues
- Subject to Clause 8.6, Council staff refusing to give information that is available to other Councillors, to a particular Councillor
- Council staff being overbearing or threatening to Councillors
- Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community
- Council staff meeting with applicants or objectors alone and outside office hours to discuss planning application or proposals.

In addition to the Code's conduct obligations, it is Council's policy that the following interactions are inappropriate:

- Council staff making personal attacks on Councillors in a public forum
- Council staff unreasonably pressuring Councillors to support recommendations they propose to make as opposed to providing information and advice on the available options and consequences

8. SOCIAL MEDIA

Council's adopted Social Media and Communication Devices Policy provides guidance to staff engaging in communications via social media channels. Staff are required to manage their social media usage in accordance with that policy.

Councillors and staff should avoid using social media in a manner that breaches the requirements of the Social Media and Communication Devices Policy, or any of the obligations prescribed within the Code of Conduct and this policy on Interaction Between Councillors and Staff.

9. COMPLIANCE AND ENFORCEMENT MATTERS

As an enforcement authority Council's officers are required to investigate unlawful and non-compliant activities. Council has an adopted Compliance and Enforcement Policy and aims to deliver regulatory services in a fair, equitable and consistent manner to protect the natural, built and social environment. The adopted policy establishes operational guidelines and procedures for Council officers dealing with compliance and enforcement matters to support the delivery of these functions and to promote the principles of procedural fairness and natural justice.

If situations arise where Councillors are present at meetings between Council officers and customers, the interaction between Councillors and staff must still be in accordance with the requirements of the Code of Conduct and this policy. This includes Councillors ensuring that they do not direct or pressure staff in the performance of their work or in recommendation they should make.

Councillors must also be mindful that compliance and enforcement matters may be the subject of litigation processes. Councillors should be careful not to direct staff in relation to matters that are the subject of litigation, or make representations or statements to parties involved in any litigation, as to do so might prejudice Council's position in relation to that litigation.

If Councillors are intending on being present at compliance and enforcement related meetings, that attendance should be confirmed in advance with the relevant Manager or nominated Coordinator.

10. POLICY CONTACT

For information regarding this policy please contact the Office of the General Manager.

11. DOCUMENT CONTROL

Policy History	Approving Authority	Date
Version 1	Council	August 2017
Minor changes made to be consistent with the Model Code of Conduct for Local Councils in NSW 2018		November 2019
Policy review – updated the Councillor Contact List. A comprehensive review of the policy will be undertaken once the new Model Code of Conduct for Councillors is prescribed.	Head of Governance	22 June 2026