



# **COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY**

Adopted: 17 June 2016

TRIM: 166749.2016



**1. LEGISLATIVE REQUIREMENTS**

*Government Information Public Access Act 2009*  
*Government Information (Public Access) Regulation 2009*  
*Interpretation Act 1987*  
*Local Government Act 1993*  
*Privacy and Personal Information Protection Act 1998*

**2. PURPOSE/ OBJECTIVES**

2.1 The purpose of this policy is to:

- a) Provide a documented process on how the Mayor and Councillors can access Council staff, records, information and buildings.
- b) Ensure the Mayor and Councillors have access to all documents and information necessary for them to exercise their statutory role as a member of the governing body of the Council.
- c) Ensure that the Mayor and Councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner.
- d) Provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.

**3. DEFINITIONS**

*“Open access information”* is information listed in Schedule 1 of the *Government Information (Public Access) Regulation 2009* that a member of the public could access by applying under Council’s Agency Information Guide

*“Operational advice”* refers to requests regarding routine services provided by Council.

*“Ordinary day”* refers to the reckoning of time as set out in section 36 of the *Interpretation Act 1987*, which excludes a Saturday, a Sunday, a public holiday or a bank holiday being included in the calculation of the period of a day or number of days in relation to notice to be given under the provisions of the Code.

*“Strategic advice”* refers to request regarding matters that relate to policy direction, long term planning and significant projects.

*“Response”* refers to an answer to a request or a proposed course of action (not an acknowledgement) by email, fax or letter.

*“Third party advice”* is written advice obtained by Council from a third party. Such advice includes legal advice, consultants’ reports and advice from Government agencies.

#### 4. POLICY STATEMENT

- 4.1 Liverpool City Council acknowledges that its Mayor and Councillors require access to Council information and staff in order for them to exercise the functions of their civic office under the *Local Government Act 1993* (the Act). The Act also requires the Mayor, Councillors and staff to act honestly and responsibly when carrying out their functions, not taking advantage of their position to unduly influence other Councillors or staff in the performance of their duties or functions or use their position to obtain, either directly or indirectly, an advantage for them or any other person.
- 4.2 Access to a Council file, information or staff member can only be provided in accordance with this policy to ensure that access is obtained in ways that are legal and appropriate. The types of requests, authorisation requirements, and the manner of responses, restrictions and record keeping requirements are specified in Attachment A.
- 4.3 In relation to access to Council buildings and offices, there are no restrictions to Councillor access to public areas, Council meeting rooms, the CEO's and Mayor's Offices and the Councillors' Room. The Mayor and Councillors should, wherever practicable, ensure that the staff member(s) that they wish to visit will be available. Council staff should in turn make sure they are accessible to the Mayor and Councillors. The CEO, directors and managers may invite the Mayor and/ or Councillors to meet in their administration offices.
- 4.4 The Mayor and Councillors shall only make requests of staff that are relevant to the Mayor or Councillor's civic duties. If the Mayor or a Councillor requires information, action or advice in relation to a personal or private matter, they must follow the same process as any other member of the public. The statutory roles of the Mayor, Councillors and the Chief Executive Officer are detailed in Attachment B.
- 4.5 If a staff member receives a request from the Mayor or a Councillor which they consider may not be relevant to the Mayor or Councillor's civic duties, the staff member is entitled to require the Mayor or Councillor to demonstrate how the request relates to the Mayor or Councillor's civic duties. If the staff member is still not satisfied that the request relates to the Mayor or Councillor's civic duty, the staff member is entitled to refuse to action the request or advise the Mayor or Councillor of the normal process for members of the public to make such requests.
- 4.6 The Mayor and Councillors are entitled to access to all Council files, records or other documents where that information is identified under Schedule 1 of the *Government Information (Public Access Act) Regulation 2009* or relates to a matter currently before the Council. (Note, however, that the provision of access to legal advice will be dealt with in accordance with clause 4.6(g) of this policy and the provisions of Council's Legal Services Policy generally.)
- 4.7 In relation to "third party advice" (see definition above) relevant to a matter currently before the Council for determination the following principles shall apply:
- a) A copy of all such advice obtained by Council in relation to the subject matter shall be provided to all Councillors no less than three business days prior to

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the meeting at which the matter is to be determined to allow Councillors to read and understand the advice;

- b) Where such advice contains confidentiality provisions which limit the ability of Council staff to copy and or distribute the advice, the Mayor and Councillors shall be advised of the existence of the advice and arrangements made to provide access in an authorised manner where possible;
- c) Where it is deemed inappropriate for such advice to be copied for other reasons, such as the size or volume of the advice, then the substance of the advice shall be provided to the Mayor and Councillors in summary form with arrangements being made for the Mayor and Councillors to view the actual advice, if necessary;
- d) The Mayor and Councillors acknowledge in return that such advice may be confidential and public disclosure may be detrimental to Council's interests. Accordingly, where the advice is provided to the Mayor and Councillors on a confidential basis, the Mayor and Councillors agree not to disclose the advice to any other person. Failure to abide by this clause shall constitute a breach of both Council's Code of Conduct and the Act and will result in action being taken against the Mayor or any Councillor found to have breached confidentiality without proper authority;
- e) Where such advice relates to matters which are to be determined under delegated authority or do not otherwise require referral to Council for determination, then the requirements of this clause shall not apply; and
- f) Where such advice is received well in advance of the matter being formally referred to Council for determination, the Chief Executive Officer shall have discretion as to the timing of the provision of the advice to the Mayor and Councillors provided that it shall be made available within a reasonable time prior to the meeting at which the matter is to be considered. Where necessary it is acknowledged that members of Council staff may need to obtain follow up advice or carry out further investigation of the matter before the advice is provided to the Mayor and Councillors;
- g) In relation to access to legal advice, the Mayor and Councillors may have access to such advice, but must not retain copies of such advice and avoid any potential conflicts of interest in relation to legal advice received by Council in accordance with the provisions of Council's Legal Services Policy.

4.8 Where the Mayor or a Councillor receives an enquiry from a constituent with regard to an operational matter, the enquiry should be actioned as follows:

- a) For the Mayor, the enquiry should be made to the Executive Assistant to the Mayor to be forwarded to the relevant director for a response to be drafted in the Mayor's name within two ordinary days for signature and dispatch from the Mayor's office.
- b) For Councillors, the enquiry should be made to the Councillor Support Officer to be forwarded to the relevant director for a response to be emailed direct to the Councillor within two ordinary days. The Councillor is then responsible for forwarding the response with any comments to the constituent.

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- c) For matters not requiring a formal written response (for example, those which require direction or a quick answer) to either the Mayor or Councillor, a telephone conversation with the Chief Executive Officer; directors, the Manager Council and Executive or a relevant manager is also acceptable.

### 4.9 Inappropriate interactions

Council's policy, based on the Code of Conduct, is that the following interactions are inappropriate:

- a) The Mayor and Councillors approaching members of staff other than those specifically identified in Attachment A;
- b) Council staff approaching the Mayor or Councillors directly (rather than via their director or manager);
- c) Council staff refusing to give information that is available to other Councillors to a particular Councillor;
- d) The Mayor or Councillors who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of Council;
- e) The Mayor or Councillors being overbearing or threatening to Council staff;
- f) The Mayor or Councillors making personal attacks on Council staff in a public forum;
- g) The Mayor or Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make;
- h) Council staff providing ad hoc advice to the Mayor and Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community;
- i) Council staff meeting with applicants or objectors alone and outside officer hours to discuss applications or proposals;
- j) The Mayor or Councillors attending on-site meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's CEO or, in the case of the Mayor, exercising their power under section 226 of the Act.

### 4.10. Breaches of this policy by Councillors

4.10.1 A breach of this policy by the Mayor or any Councillor will be dealt with in accordance with Council's Code of Conduct and Code of Conduct Procedures.

4.10.2 If the matter tends to show or shows maladministration, corrupt conduct, serious and substantial waste, government information contravention or criminal activity, it will be referred by the Chief Executive Officer to the appropriate investigative agency.

### 4.11 Breaches of this policy by members of Council staff

4.11.1 A breach of this policy by members of Council staff will be dealt with in

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accordance with any relevant staff agreements, awards, industrial agreements, contracts and Council policies, including the Code of Conduct and Code of Conduct Procedures.

- 4.11.2 If the matter tends to show or shows maladministration, corrupt conduct, serious and substantial waste, government information contravention or criminal activity, it will be referred by the Chief Executive Officer to the appropriate investigative agency.

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### **AUTHORISED BY**

Council (per the Acting CEO)

### **EFFECTIVE FROM**

17 June 2016

### **DEPARTMENT RESPONSIBLE**

Corporate Services (Council and Executive)

### **REVIEW DATE**

17 June 2018

### **THIS POLICY HAS BEEN DEVELOPED AFTER CONSULTATION WITH**

The Mayor

Corporate Services (Governance, Legal and Procurement)

Councillors

Chief Executive Officer

### **VERSIONS**

<b>Version</b>	<b>Amended by</b>	<b>Date</b>	<b>TRIM Number</b>
1	Council Resolution	11 June 2002	Not applicable
2	Council Resolution	15 June 2009	099865.2009
3	Council Resolution	21 June 2010	111710.2010
4	Council Resolution	25 July 2011	079519.2011
5	Council Resolution	5 November 2012	231162.2012
6	Council Resolution	26 June 2013	144367.2013
7	Council Resolution	20 June 2014	129147.2014
8	Acting CEO after review	17 June 2016	166749.2016

### **REFERENCES**

Division of Local Government in cooperation with the Local Government Association of NSW and the Shires Association of NSW: Councillor Handbook 2012

Division of Local Government: Councillors' Access to Information Circular no.10 30 December 2010

Liverpool City Council: Civic Expenses and Facilities Policy

Liverpool City Council: Code of Conduct

Liverpool City Council: Code of Conduct Procedures

Liverpool City Council: Code of Meeting Practice

Liverpool City Council: Ethical Governance: Conflicts of Interest Policy

Liverpool City Council: Ethical Governance: Internal Investigations Policy

Liverpool City Council: Legal Services Policy

### **ATTACHMENTS**

Attachment A: Interactions between Councillors and Council staff

Attachment B: Statutory provisions relating to the roles of Councillors and the Chief Executive Officer

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**Attachment A**

**INTERACTIONS BETWEEN COUNCILLORS AND COUNCIL STAFF**

<b>TYPE OF REQUEST</b>	<b>FROM WHOM TO GAIN APPROVAL</b>	<b>HOW INFORMATION IS TO BE REQUESTED</b>	<b>HOW INFORMATION IS TO BE PROVIDED</b>	<b>RESTRICTIONS TO INFORMATION</b>	<b>RECORD KEEPING REQUIREMENTS</b>
<b>Access to Documents</b>	CEO, Public Officer	It is the Mayor or Councillor's choice whether a request is submitted in writing or made verbally.  The CEO, Public Officer and Councillor Support Officer are required to keep a file note of verbal requests when appropriate.	Inspection of documents will only be permitted on the premises. Copies of publicly available documents will be permitted.  Documents that are not publicly available can be inspected but not copied. The CEO has overriding discretion.	There are no specific restrictions. However, the CEO and the Public Officer have discretion to refuse a request on legitimate grounds.  If access is refused, a notice of motion, the GIPA Act and the Agency Information Guide are the alternative forms of access.	The general principle is to keep a record of all transactions.  However this is not required if it is only a routine matter.
<b>Operational or Strategic Advice</b>	CEO, directors, managers, Councillor Support Officer	It is the Mayor or Councillor's choice whether a request is submitted in writing or made verbally.  The CEO, directors, managers and Councillor Support Officer are required to keep a file note of verbal requests when appropriate.	The response will be provided verbally, memo or email.  The timeframe for a response will be two ordinary days.	There are no specific restrictions. However the CEO and directors have discretion to refuse a request on legitimate grounds.  If access is refused, a notice of motion or a question with notice is the alternative forms of access.	The general principle is to keep a record of all transactions.  However this is not required if it is only a routine matter.
<b>Councillor Support and Requests</b>	Council and Executive Services staff, managers, Councillor Support Officer, Executive Assistant to the Mayor, Executive Assistant to the CEO, IT Helpdesk	It is the Mayor or Councillor's choice whether their request is submitted in writing or made verbally. Council officers are required to keep a file note of verbal requests when appropriate.	The timeframe for a response will be two ordinary days	The administrative assistance must be in accordance with the Civic Expenses and Facilities Policy.	The general principle is to keep a record of all transactions. However, this is not required if it is only a routine matter.

## Attachment B

### STATUTORY PROVISIONS RELATING TO THE ROLES OF COUNCILLORS AND THE CHIEF EXECUTIVE OFFICER

Chapters 9 and 11 of the *Local Government Act* 1993 sets out the statutory roles and duties of Councillors and the general manager. The introduction to Chapter 9 states that "each council is a statutory corporation. The Councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with this Act." Chapter 9 includes the following provisions:

#### **1. The governing body (s. 222)**

The elected representatives, called "Councillors," comprise the governing body of the council.

#### **2. The role of the governing body (s. 223)**

The role of the governing body is to direct and control the affairs of the council in accordance with this Act.

#### **3. The role of the mayor (s. 226)**

The role of the mayor is:

- To exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council (for example, urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action);
- To exercise such other functions of the council as the council determines (for example, determining the appropriateness of holding a special event such as a fun run, approval of the general manager's annual leave);
- To preside at meetings of the council; and
- To carry out the civic and ceremonial functions of the mayoral office.

#### **4. The role of a Councillor as a member of the governing body (s. 232(1))**

The role of a Councillor is, as a member of the governing body of the council:

- To direct and control the affairs of the council in accordance with this Act (for example, input into preparation of council's management plan, financial plan and organisational structure);
- To participate in the optimum allocation of the council's resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);
- To play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions; and
- To review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.

#### **5. The role of a Councillor as an elected person (s. 232(2))**

The role of a Councillor is, as an elected person:

- To represent the interests of the residents and ratepayers;
- To provide leadership and guidance to the community; and
- To facilitate communication between the community and the council.

#### **6. The role of the general manager (s. 335(1))**

The general manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.

#### **7. The functions of the general manager (s. 335(2))**

The general manager has the following particular functions:

- To manage the council on a day-to-day basis;
- To exercise such of the functions of the council as are delegated by the council to the general manager;
- To appoint staff in accordance with an organisational structure and resources approved by the council;
- To direct and dismiss staff; and
- To implement the council's equal employment opportunity management plan.