



COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

Adopted: 26 July 2023

TRIM: 380335.2022-008



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, advice, 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 requests regarding matters that relate to policy direction, strategic and 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 or letter.

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

“Internal Lead” a member of the *Executive Leadership Team, General Counsel, Manager Governance*

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 Councillors should exercise due care in undertaking their functions by acquainting themselves with the requirements of the *Local Government Act 1993*, Councils Code of Conduct, the details of the matters they are dealing with and any factors which may affect their involvement in decision making. If councillors are uncertain about an action or decision there are mechanisms in place to assist the councillors with seeking independent professional advice.
- 4.3 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.
- 4.4 Councillors are entitled to have access to the council chamber, committee room, mayors' officer (subject to availability), councillors rooms, and public areas of councils buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the CEO.
- 4.5 Councillors must not enter staff-only areas of council buildings without the approval of the CEO (or their delegate).
- 4.6 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.
- 4.7 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.
- 4.8 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 4.7(e) of this policy and the

COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

provisions of Council's Legal Services Policy generally).

- 4.9 Councillors who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public.
- 4.10 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.
 - 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.

5 THIRD PARTY ADVICE

- 5.1 Councillors may request that officers obtain third party advice relating to an item of business before the Council or relating to their Civic duties in one of two ways:
- By Council resolution directing the CEO to obtain the requested advice; or
 - By request to the CEO in line with the process outlined below, if it is impracticable to seek a resolution requesting the advice.
- 5.2 A request to the CEO for third party advice should be made in writing and be signed by three councillors, or signed by one councillor and accompanied by advice from a government agency or public body that is relevant to Council's functions and supports the request for third party advice, setting out:
- The item of business before the Council or civic duties to which the advice relates;
 - Why it is considered impracticable to seek a resolution that the advice be provided; and
 - Why third-party advice is required.

NOTE: In the absence of the CEO or any other reason deemed valid by the requestor the Director Corporate Services can be used as an alternate officer to receive the written notice.

- 5.3 Upon receipt of a request for third party advice, the CEO will:
- Circulate the request to all councillors;

COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

- Appoint an internal lead to consider the request, who will be the relevant Executive Team member or General Counsel;
- If necessary, arrange a discussion with the referring councillors; and
- Consider whether it is reasonable to obtain the advice in the circumstances.

5.4 If the CEO agrees that third party advice should be obtained, the lead officer will work with the requestor to understand the scope, brief an advisor and obtain the advice. The advice will be provided to all Councillors, subject to the following principles;

- The CEO 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, the CEO may request follow-up advice or further investigation before the advice is provided to the Mayor and Councillors; and
- The Mayor and Councillors acknowledge that 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 will not disclose the advice to any other person. Failure to maintain confidentiality may constitute a breach of both Council's Code of Conduct and the Act and result in action being taken;

5.5 The CEO will generally not obtain third party advice without a Council resolution in relation to:

- Matters where Council staff have not yet provided advice; and
- Advice with an estimated cost of \$10,000 or more.

5.6 The Chief Executive Officer will keep a register of all written requests for advice to the CEO. A report detailing the number of requests made for independent advice and high-level information will be tabled at a council meeting biannually through the quarterly budget review.

5.7 A budget of \$100,000 will be set for every financial year to cover requests for third party advice.

6 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) Councillors approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) Council staff approaching councillors to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters

COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

- d) subject to clause 8.6, council 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 council staff in staff-only areas of the council
- f) councillors approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- g) councillors and administrators being overbearing or threatening to council staff
- h) council staff being overbearing or threatening to councillors or administrators
- i) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- j) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- k) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- l) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- m) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

7 BREACHES OF THIS POLICY BY COUNCILLORS

- 7.1 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.
- 7.2 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.

8 BREACHES OF THIS POLICY BY MEMBERS OF COUNCIL STAFF

- 8.1 A breach of this policy by members of Council staff will be dealt with in accordance with any relevant staff agreements, awards, industrial agreements, contracts and Council policies, including the Code of Conduct and Code of Conduct Procedures.
- 8.2 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.

COUNCILLOR ACCESS TO INFORMATION AND INTERACTION WITH STAFF POLICY

AUTHORISED BY

Council

EFFECTIVE FROM

31 May 2023

DEPARTMENT RESPONSIBLE

Office of the CEO (Council and Executive Services)

REVIEW DATE

31 May 2025

THIS POLICY HAS BEEN DEVELOPED AFTER CONSULTATION WITH

Governance

Chief Executive Officer

Executive Leadership Team

Legal

Internal Ombudsman

Office of Local Government

VERSIONS

Version	Amended by	Date	TRIM Number
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
9	Council Resolution	6 February 2019	060558.2019
10	Council Resolution (reviewed and no changes made)	3 February 2021	060558.2019
11	Council	31 March 2023	380335.2022-008
12	Council Resolution	26 July 2023	380335.2022-008

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

Civic Expenses and Facilities Policy

Code of Conduct

Code of Conduct Procedures

Code of Meeting Practice

Conflicts of Interest Policy

Ethical Governance: Internal Investigations Policy

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

Attachment A

INTERACTIONS BETWEEN COUNCILLORS AND COUNCIL STAFF

TYPE OF REQUEST	FROM WHOM TO GAIN APPROVAL	HOW INFORMATION IS TO BE REQUESTED	HOW INFORMATION IS TO BE PROVIDED	RESTRICTIONS TO INFORMATION	RECORD KEEPING REQUIREMENTS
Access to Documents	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.
Operational or Strategic Advice	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.
Councillor Support and Requests	Council and Executive Services staff, Coordinator Governance 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**

1. The governing body (s. 222)

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

2. Role of governing body (s. 223)

1. The role of the governing body is 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 policies 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.

3. Role of mayor (s. 226)

The role of the mayor is as follows:

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,
- (o) to exercise any other functions of the council that the council determines.

4. The role of a Councillor (s. 232(1) and s.232(2))

- (1) 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.
- (2) A councillor is accountable to the local community for the performance of the council.

5. Functions of the general manager (s. 335)

The general manager of a council has the following functions:

- (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,
- (b) to implement, without undue delay, lawful decisions of the council,
- (c) to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
- (d) to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,
- (e) to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,
- (f) to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,
- (g) to exercise any of the functions of the council that are delegated by the council to the general manager,
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,
- (i) to direct and dismiss staff,
- (j) to implement the council's workforce management strategy,
- (k) any other functions that are conferred or imposed on the general manager by or under this or any other Act.