

### 1. POLICY STATEMENT:

Council is committed to ensuring that all interactions between Councillors and staff are positive and constructive, and conducted in a manner that facilitates Council's optimum performance.

### 2. BACKGROUND:

This policy has been prepared in accordance with section 94A (3A) of the *Local Government Act 1989*.

It is acknowledged in the local government sector that the relationship between Councillors and the Council administration is complex and can be fragile; but the strength of this relationship is critical to achieving good governance.<sup>1</sup>

This policy is intended to contribute to respectful, trusting and constructive relationships between Councillors and Council staff, by articulating their different but complementary roles, defining reasonable expectations, and establishing clear and effective communication protocols that facilitate good governance and Council's optimum performance.

This policy complements the Councillor Code of Conduct and the Staff Code of Conduct.

### 3. POLICY OBJECTIVES:

The objectives of this policy are to:

- 3.1 Foster goodwill between Councillors and Council staff, and mitigate the potential for divisive and dysfunctional relationships to develop, by defining appropriate professional interaction;
- 3.2 Enhance productivity by maintaining an environment in which Council staff have the morale and confidence to provide frank and fearless professional advice to Councillors, to facilitate informed decision making;
- 3.3 Establish protocols to ensure that Councillors are provided with all necessary information and advice in an orderly, timely, courteous and equitable manner, to enable them to perform their civic duties;
- 3.4 Avoid inefficiency, unnecessary duplication of work and stress by improving role clarity;
- 3.5 Ensure that all interactions between Councillors and staff are conducted in a professional and respectful manner, with due regard for each other's roles and responsibilities;
- 3.6 Support compliance with the 'Conduct and interests' provisions set out in Division 1A of Part 4 of the *Local Government Act 1989*; the *Occupational Health and Safety Act 2004*; the *Equal Opportunity Act 2010*; and the *Fair*

<sup>1</sup> Good Governance Guide – Council and Administration Relationship  
<http://www.goodgovernance.org.au>

*Work Act* 2009, and thereby reduce the risk of a WorkCover or bullying claim against Council or a Councillor, and the risk of potential, perceived or actual direction of Council staff by a Councillor; and

- 3.7 Set out a process for managing any grievance that may arise between Councillors and Council staff.

**4. SCOPE:**

This policy applies to Councillors, the Chief Executive Officer (CEO) and all Council staff.

The policy covers interaction through all forms of communication, including meetings (both planned and unplanned), personal visits, telephone calls, interactions through social media, and emails between Councillors and Council staff.

This policy does not apply in the context of social interactions between a Councillor and member of Council staff who have a personal relationship outside the Council environment.

**5. AUTHORISATION:**

Section 94A(3A) of the *Local Government Act* 1989 stipulates that the CEO is responsible for managing interactions between Council staff and Councillors; and section 65(3) states that the role of a Councillor does not include the performance of any functions that are specified as functions of the CEO under section 94A. Accordingly, the CEO must have exclusive responsibility for this policy and its administration.

Notwithstanding the above, Councillors may provide feedback or comments regarding this policy to the CEO for consideration.

This policy was presented to Council at its Ordinary Meeting on 13 June 2017.

**6. REVISION:**

This policy will be reviewed within twelve months of the next general Council elections, unless an earlier review is deemed necessary by the CEO.

**7. NON-COMPLIANCE WITH THIS POLICY:**

Failure to comply with this policy may constitute a breach of the Councillor Code of Conduct, the Staff Code of Conduct, the *Local Government Act* 1989, the *Occupational Health and Safety Act* 2004, the *Fair Work Act* 2009, the *Equal Opportunity Act* 2010 and other anti-discrimination legislation, the *Privacy and Data Protection Act* 2014, the *Health Records Act* 2001 and/or the *Charter of Human Rights and Responsibilities Act* 2006.

Non-compliance with this policy also has the potential to negatively impact on Council's performance.

**8. RELATED DOCUMENTS:**

- *Local Government Act 1989;*
- *Occupational Health and Safety Act 2004;*
- *Equal Opportunity Act 2010 and other anti-discrimination legislation;*
- *Fair Work Act 2009;*
- *Privacy and Data Protection Act 2014;*
- *Health Records Act 2001.*
- *Charter of Human Rights and Responsibilities Act 2006;*
- Councillor Code of Conduct;
- Staff Code of Conduct;
- Discipline Procedure (staff); and
- Town Planning Processes Guide for Councillors, which incorporates the Planning (Objector) Engagement Procedure.

**9. IMPLEMENTATION OF THE POLICY:**

The CEO and Mayor will work together to foster a culture which supports the application of this policy, its principles and protocols.

The Mayor will be responsible for educating Councillors about the policy, and for supporting policy compliance by Councillors.

The CEO will be responsible for ensuring that the policy is incorporated into relevant administrative procedures and processes. Directors, Managers, Coordinators and Team Leaders will be responsible for educating their staff about the policy, and for supporting compliance by their staff.

The policy will be readily accessible to all; it will be published on Council's website and intranet.

**10. ROLES AND RESPONSIBILITIES:**

**10.1 CEO**

10.1.1 Section 94A (3A) of the *Local Government Act 1989* states that the CEO is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

10.1.2 In the performance of this function, the CEO will:

- (a) ensure that this policy is accessible to staff and Councillors;
- (b) monitor compliance with this policy; and

- (c) oversee the management of any complaint or concern raised in relation to compliance with this policy.

## 10.2 Councillors

- 10.2.1 Councillors are responsible for ensuring that they understand and comply with this policy.
- 10.2.2 If a Councillor wishes to express a view about an administrative matter, they will do so through the CEO. This does not preclude a Councillor from raising any appropriate matter in the Council chamber.
- 10.2.3 When interacting with members of Council staff, Councillors will:
- (a) observe the *Local Government Act* 1989, the Councillor Code of Conduct, and other relevant Council policies;
  - (b) respect the functions and responsibilities of the CEO and Council staff, and the proper workings and line management responsibilities (hierarchy) of the Council administration;
  - (c) consider the potential impact on staff and available resources and priorities when requesting advice or information, and avoid making requests that are likely to involve excessive costs; and
  - (d) communicate in a way that is courteous and respectful of staff members' wellbeing.
- 10.2.4 Councillors acknowledge that they are prohibited under section 76E of the *Local Government Act* 1989 from improperly directing Council staff. Councillors will avoid behaving in a way that might contribute to a perception of improper direction. Compliance with this prohibition includes:
- (a) behaving courteously and respecting the professional opinion, skill or expertise of staff;
  - (b) following the formal processes when seeking information;
  - (c) accepting that staff are required to adhere to formal processes when making decisions and providing information, services and assistance;
  - (d) respecting the normal business timeframes associated with the making of a decision or the taking of action; and
  - (e) allowing staff to make decisions under delegated authority within the formal reporting and decision making processes.
- 10.2.5 As Council staff are unable to freely respond or defend themselves, Councillors will refrain from making comments or allegations about members of Council staff in a public forum (including at Council meetings). Councillors will adhere to any formal complaint handling procedures.

**10.3 Staff**

- 10.3.1 Council staff are responsible for ensuring that they understand and comply with this policy.
- 10.3.2 When interacting with Councillors, Council staff will:
- (a) treat Councillors with the respect due to their office. This includes, in all formal settings, addressing Councillors as 'Councillor (last name)' and the Mayor as either 'Mr Mayor' or 'Madam Mayor', as appropriate;
  - (b) be responsive to requests from a Councillor for professional advice related to the performance of the Councillor's role;
  - (c) be responsive to requests from a Councillor for information connected to the performance of the Councillor's role, in a manner that complies with Council's privacy obligations;
  - (d) ensure that information provided to a Councillor is current, factually correct, complete, impartial and relevant;
  - (e) seek the advice and approval of their Manager, prior to responding to a direct request from a Councillor;
  - (f) accept and implement the decisions of Council as appropriate in their role and in a timely manner;
  - (g) refrain from approaching Councillors directly;
  - (h) avoid making any public comment or criticism regarding Councillors and Council decisions (consistent with the obligations set out in the Staff Code of Conduct); and
  - (i) respond to reasonable requests from a Councillor in a timely manner.

**11. THE GUIDING PRINCIPLE**

- 11.1 This policy is underpinned by the principle that all formal advice to Council and to Councillors should be provided through the CEO or Directors. This is the only advice against which Council's administration can reasonably be held accountable.
- 11.2 The CEO is responsible for the administrative management of the Council and is the conduit between Council's administration and Councillors. Wherever practicable, interaction between staff and Councillors should take place through the CEO.
- 11.3 For expediency, there are some exceptions to this guiding principle; these are detailed in the protocols supporting this policy and the table of approved communication below.

## 12. INTERACTION PROTOCOLS:

To maintain the cooperative and supportive relationships that are necessary for transparency, good governance and Council's optimum performance, the following protocols will guide interaction between Councillors and Council staff.

- 12.1 The Councillors' primary point of contact within the Council is the CEO; a Councillor seeking information or wishing to raise an issue or make comment on a specific matter should communicate in the first instance with the CEO, or with the relevant Director or Manager if the CEO is not available.
- 12.2 Councillors can also contact Council staff in accordance with the table of Approved Communication by Councillors (see page 7), subject to the conditions set out below.
- 12.3 Although a Councillor may approach the relevant member of staff directly for an enquiry about a routine operational matter, advice that a Councillor intends to rely on should first undergo an appropriate verification process involving approval by a Director or the CEO. Speaking to lower-level staff may result in a Councillor not being fully informed about relevant background or context, or receiving advice that has not been formally endorsed by the administration.
- 12.4 If a member of staff below Manager level is approached directly by a Councillor, the relevant Director or Manager should be advised of the approach, and of the response that has been provided.
- If the staff member feels uncomfortable about the nature of the Councillor enquiry, they will refer the Councillor to their Director or Manager.
- 12.5 A Councillor may request that a staff member attend to provide professional advice and support in a meeting with a member (or members) of the public. Such a request must be made through the CEO or relevant Director.
- 12.6 The relevant Director and Manager must be copied in or otherwise formally advised of all communication between members of their staff and a Councillor.
- 12.7 A member of staff must inform their Manager and Director of any contact made directly with them by a Councillor. If the member of staff believes that the contact is inconsistent with this policy, the Manager and Director should be advised accordingly.
- 12.8 Council staff will provide information and advice to Councillors in a timely manner, and in accordance with this policy and relevant legislative obligations (eg. privacy). As a general rule, information that is provided to a Councillor should be made available to all Councillors.



The table below sets out the subjects that may be directly discussed by Councillors with various members of Council staff. Clarification, including examples of the types of issues covered by each subject, is provided on the pages following the table.

**TABLE – APPROVED COMMUNICATION BY COUNCILLORS:**

Approved staff contact →	Mayor & Councillors' Office	CEO	Relevant Director	Relevant Manager	Coordinator Statutory Planning	Coordinator Communications	Communications Team	IT Helpdesk
Subject * ↓								
Policy & strategy		✓	✓	✓				
Media & communications – routine		✓	✓	✓		✓	✓	
Media & communications – complex		✓	✓	✓		✓		
IT assistance	✓	✓	✓	✓				✓
Compliance & enforcement		✓	✓	✓				
Statutory planning	✓	✓	✓	✓	✓			
Service delivery	✓	✓	✓	✓				
Administrative support	✓	✓	✓	✓				

\* see explanatory notes on the pages that follow.

**EXPLANATORY NOTES – APPROVED COMMUNICATION BY COUNCILLORS:**
**Policy & strategy**

Enquiries or comments about Council policy (eg. direction, gaps or ambiguities in a policy and consideration of alternatives), budget proposals, strategic Council planning and direction, should be directed to the CEO or relevant Director.

**Media & communications – Routine**

Routine media and communications enquiries, which involve Councillors merely seeking clarification about work that is being undertaken, can be directed to the relevant officer in the Communications Team. Examples of routine media and communications enquiries include:

- (a) confirmation of media content;
- (b) provision of draft material for Frankston City News columns; and
- (c) logistics for previously approved media opportunities.

**Media & communications – Complex**

Complex media and communications enquiries, which involve discussion about strategic issues and requests which are likely to divert officers from their programmed tasks, must be discussed with the Coordinator Communications, or the relevant Manager, Director or CEO. Examples of complex media and communications enquiries include:

- (a) requests for meetings;
- (b) requests for particular work to be done;
- (c) discussion regarding key messages, communications strategies and plans;
- (d) discussion about planning of launches and media coverage, including requests to promote community events;
- (e) speech requests;
- (f) requests for photo opportunities; and
- (g) service complaints.

**IT assistance**

Simple issues such as an enquiry regarding service delivery timing or equipment failure can be dealt with by the Mayor and Councillors' Office in the first instance. Councillors may be referred to the IT Helpdesk if necessary.

Routine service requests associated with computers and mobile devices can also be made directly to the IT Helpdesk.

More complex issues, including service complaints, should be discussed with the relevant Manager, Director or CEO.



### Compliance & enforcement

Council and the CEO make formal delegations, and the CEO authorises appropriately qualified staff, to monitor compliance and perform Council's functions under legislation including the *Domestic Animals Act* 1994, the *Environment Protection Act* 1970, the *Food Act* 1984, the *Health Act* 1958, the *Planning and Environment Act* 1987, the *Building Act* 1993, the *Road Safety Act* 1986 and Council's Local Laws. Delegated and authorised officers must be able to perform their investigations, determine appropriate responses, and manage any resulting infringements and prosecutions, within Council's established policies and practices, free from improper direction or influence.

Councillors must avoid involvement in all stages of the investigation and enforcement of matters, or risk committing an offence against the prohibition on improper direction as set out in section 76E of the *Local Government Act* 1989. Councillors may only contact the CEO, relevant Director or Manager with requests for information regarding such matters.

### Statutory planning

Council has significant responsibilities under the *Planning and Environment Act* 1987. Statutory planning decisions may be made by appropriately qualified Council officers under formal delegation, or by Council in certain circumstances such as where a planning application has been 'called-in' for consideration and decision by Council at a properly constituted Council meeting. Irrespective of whether an application is considered by a Council officer or by Council, the integrity of the decision making process requires that it must be free from any perception of bias, predetermination, inappropriate direction or undue influence.

Councillor enquiries about routine planning issues (eg. an enquiry regarding arrangements for a Residents' Meeting, call-in of a planning application, a request for clarification of the Town Planning Progress Report or about a planning report that is to be considered by Council) should be directed in the first instance to the Mayor and Councillors' Office. The Mayor and Councillors' Office may refer the matter to the Coordinator Statutory Planning or Manager Planning & Environment, if necessary, to coordinate a response to the request. More complex issues should be raised with the relevant Manager, Director or CEO.

Further information about Councillor involvement in the statutory planning process is provided in Council's *Planning (Objector) Engagement Procedure*.



**Service delivery**

Where a Councillor is approached by a resident regarding a service delivery issue (eg. scheduling of works, project delivery or a perceived service failure) they should first ensure that the resident is aware of the primary mechanisms for contacting Council’s administration; through the “Lodge a Customer Request” or “General Enquiries” functions on Council’s website, or through a member of Council’s customer relations team. Use of these mechanisms ensures that the request or complaint is properly recorded and can be monitored for compliance with Council’s customer service standards.

Where a Councillor becomes aware of an issue that requires attention by Council’s administration, or needs to seek information in relation to a service delivery matter that may require further investigation outside the primary mechanisms described above, this should be done through the Councillor Requests System which is administered by the Mayor and Councillors’ Office staff.

If a Councillor is concerned about the outcome of a Councillor or Customer request, the matter should be raised with the relevant Manager, Director or the CEO.

**Administrative support**

The Mayor and Councillors’ Office is responsible for providing direct support and administrative assistance to the Mayor and Councillors. Requests for documents to be printed, stationery orders, expense claims and diary management enquiries should be directed to the Mayor and Councillors’ Office staff. Formal Councillor requests and routine general enquiries can also be directed to the Mayor and Councillors’ Office staff in the first instance, and will be referred to the relevant member of Council staff for response where appropriate.

**13. COMPLAINTS:**

If a person believes that there may have been non-compliance with this policy (including improper direction), the matter should first be raised with the relevant Director or the CEO.

An alleged breach of this policy by a member of Council staff will be dealt with in accordance with the Staff Code of Conduct and the Disciplinary Procedure – this may include disciplinary action, depending on the circumstances.

An alleged breach of this policy by a Councillor will be dealt with in accordance with the Councillor Code of Conduct – this may include referral to a Councillor Conduct Panel or the Local Government Inspectorate, depending on the circumstances.