

## **COUNCILLORS AND STAFF INTERACTION POLICY**

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### **POLICY OBJECTIVE**

In Wentworth Shire Council (Council), as in all councils, there is a complex web of relationships between Councillors and Council employees. These contacts are necessary and essential to the smooth functioning of Council, as they allow Councillors access to information and employees.

The policy is designed to provide clear guidelines that help Councillors and employees to understand fully their respective roles and how they should operate, in order to perform their job effectively and maintain a respectful and harmonious relationship.

### **1. POLICY STATEMENT**

The intent of this policy is to facilitate a positive working relationship between Councillors as elected representatives of the Wentworth Shire Council, and the staff employed to administer the operations of Council. The policy provides direction on interactions between Councillors and Council staff to assist both parties in carrying out their day-to-day duties professionally, ethically and respectfully.

This policy will:

- provide a clear definition of the respective roles of elected members and Council employees;
- provide communication channels to ensure the speedy provision of accurate information to Councillors;
- provide a documented process on how Councillors can access Council records;
- ensure Councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of Council;
- provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.

This policy both complements and should be read in conjunction with Council's Code of Conduct. This policy is an enforceable part of the Code. In the event that this policy contradicts with the Code the Code will prevail.

### **2. POLICY COVERAGE**

This policy covers personnel employed by Council; any person or organisation contracted to or acting on behalf of Council; and any person or organisation employed to work on Council premises or facilities and all activities of Council.

This policy applies to all interactions between Councillors and Council staff whether face-to-face, by telephone, online, email, or in writing.

This Policy applies whenever interactions between Council staff and Councillors regarding Council operations occur, including inside or outside work hours and at both Council and non-Council venues. This policy does not prevent Councillors and staff from communicating generally. From time to time, Councillors and staff may be present at social and community events – in such situations both parties should refrain from discussing matters relating to Council business.

### **3. STRATEGIC PLAN LINK**

Objective: 4.0 Wentworth is a caring, supportive and inclusive community that is informed and engaged in its future.

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Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery.

### 4. DEFINITIONS AND ABBREVIATIONS

Term/Word	Definition
Act	Means the <i>Local Government Act 1993</i> (NSW)
Code	Code of Conduct Policy as adopted by Council
Council	Council of the Shire of Wentworth
Councillor	Any person elected or appointed to civic office including the Mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations.
General Manager	Means the General Manager of Council and includes their delegate or authorised representative
GIPA Act	Means the <i>Government Information (Public Access) Act 2009</i>

### 5. POLICY CONTENT

It is the policy of this Council that:

Council officials are to comply with Council's Code of Conduct Policy, and this policy, regarding interaction between Councillors and Council staff.

#### Roles and Responsibilities

A number of factors contribute to a good relationship between the elected members and Council staff. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.

Councillors and Council staff must have a clear and sophisticated comprehension of their different roles, and the fact that these operate within a hierarchy. Council staff are accountable to the General Manager, who in turn, is accountable to Council.

Chapters 9 and 11 of the *Local Government Act 1993* (the Act) set out the statutory roles and duties of Councillors and the General Manager. The Councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of Council in accordance with the Act. Chapter 9 includes the following provisions:

- **The Governing Body (Section 222)**

The elected representatives, called 'Councillors', comprise the governing body of Council.

- **The Role of the Governing Body (Section 223)**

The role of the Governing Body is to direct and control the affairs of Council in accordance with this Act.

- **The Role of the Mayor (Section 226)**

The role of the Mayor is:

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- to be the leader of Council and a leader in the local community;
- to advance community cohesion and promote civic awareness;
- to be the principal member and spokesperson of the governing body, including representing the views of Council as to its local priorities,
- to exercise, in cases of necessity, the policy-making functions of the governing body of Council between meetings of Council. (e.g. urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action);
- to preside at meetings of Council;
- to ensure that meetings of Council are conducted efficiently, effectively and in accordance with this Act;
- to ensure the timely development and adoption of the strategic plans, programs and policies of Council;
- to promote the effective and consistent implementation of the strategic plans, programs and policies of Council;
- to promote partnerships between Council and key stakeholders;
- to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of Council;
- in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between Council and the local community;
- to carry out the civic and ceremonial functions of the Mayoral office;
- to represent Council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- in consultation with the Councillors, to lead performance appraisals of the General Manager; and
- to exercise such other functions of Council as Council determines.

- **The Role of a Councillor as a Member of Council (Section 232(1))**

The role of a Councillor is:

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

- **The Role of a Councillor as an Elected Person (Section 232(2))**

The role of a Councillor as an elected person is:

- 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 Council.

- **The Role of the General Manager (Section 335(1))**

The General Manager is generally responsible for the efficient and the effective operation of Council's organisation and for ensuring the implementation, without undue delay, of decisions of Council.

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- **The Functions of the General Manager (Section 335(2))**

The General Manager has the following particular functions:

- to conduct the day-to-day management of Council in accordance with the strategic plans, programs, strategies and policies of Council;
- to implement, without undue delay, lawful decisions of Council;
- to advise the Mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of Council;
- to advise the Mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of Council and other matters related to Council;
- to prepare, in consultation with the Mayor and the governing body, Council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report;
- 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;
- to exercise such of the functions of Council as are delegated by Council to the General Manager;
- to appoint staff in accordance with an organisation structure and resources approved by Council;
- to direct and dismiss staff;
- to implement Council's equal employment opportunity management plan; and
- any other functions that are conferred or imposed on the General Manager by or under this or any other Act.

### Protocols for Interactions

Council commits to the following principles to guide interactions between Councillors and Council staff:

Principle	Achieved By
<b>Equitable and Consistent</b>	Ensuring appropriate, consistent and equitable access to information for all Councillors within established service levels
<b>Considerate and Respectful</b>	Councillors and Council staff working supportively together in the interests of the whole community, based on mutual respect and consideration of their respective positions.
<b>Ethical, Open and Transparent</b>	Ensuring that interactions between Councillors and Council staff are ethical, open, transparent, honest and display the highest standards of professional conduct.
<b>Fit for Purpose</b>	Ensuring that the provision of equipment and information to Councillors is done in a way that is suitable, practical and of an appropriate size, scale and cost.
<b>Accountable and Measurable</b>	Providing support to Councillors in the performance of their role in a way that can be measured, reviewed and improved based on qualitative and quantitative data.



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All participants in Local Government are encouraged to facilitate a respectful and harmonious relationship between Councillors and Council employees. In particular, the following protocols must be observed:

- **Councillors**

- Councillors should bear in mind the spirit and letter of the Act as to their roles and also observe established protocols;
- Councillors are encouraged to respect the functions and responsibilities of employees and the proper workings of the organisation;
- Councillors must not direct employees as to the performance of their work duties;
- Requests from Councillors involving significant staff time should be made to the General Manager, or in his absence, the Acting General Manager;
- Councillors have a right of access to Council employees and to information for civic purposes under the circumstances set out in this policy;
- Should a Councillor have a complaint about an employee, the complaint must be directed to the General Manager.

- **Employees**

- Employees must be polite at all times, treat Councillors with the respect due to their office and avoid political comment;
- In all formal settings, employees will address Councillors as Councillor (last name) and the Mayor as either Mayor (last name) or Mr (Madam) Mayor;
- Employees should seek the advice and approval of the General Manager, or in his absence, the Acting General Manager, prior to responding to a direct request from a Councillor, except where the request is minor or of a day-to-day operational nature;
- Employees must ensure that information provided to Councillors is factually correct, complete and relevant;
- In making recommendations or providing advice to Council, employees are not required to follow any directions given by Councillors or Council as to the nature of that advice or those recommendations;
- Employees must not, unless a senior manager of Council, approach Councillors directly on staffing or political issues.

### Interactions during meetings

- **Councillors**

- must not make statements or imputations or disclose information concerning the personal affairs of any Councillor or Council employee;
- may, through the Mayor, put a question to another Councillor, and may, through the General Manager, put a question to a Council employee. However, the Councillor or Council employee to whom the question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or documents;
- must always be mindful of the relevance of questions that are put to other Councillors and Council employees during meetings or conferences of Council;
- must permit a Council employee a reasonable time to research and provide answers to questions;
- must not interrupt, harass or unreasonably criticise a Council employee who is speaking at a conference or meeting of Council.

- **Employees**

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- must only speak when requested and such requests must be directed through the General Manager;
- must provide an answer to questions put through the General Manager if the information is readily available to them;
- may take questions on notice if information is not readily available. However, taking questions on notice should not be used as an excuse to avoid answering questions.

### Interactions outside meetings

- **Councillors**

Councillors, in their dealings with employees, and the organisation, must:

- have regard to the provisions of the Act, and the roles and responsibilities set out therein and reproduced in this policy;
- respect the functions, responsibilities and workload of individual employees;
- respect and comply with the proper and reasonable practices and procedures of the organisation;
- only direct a question or request information through the General Manager or Directors. The Councillor may decide the question is to be asked or the request is to be made orally or in writing, but must not unreasonably ignore a request from the staff member concerned for it to be put in writing.

- **Employees**

Employees, in their dealings with Councillors, must:

- respect the role and responsibilities of all Councillors, and their right to obtain relevant information;
- on receipt of a question or request, answer the Councillor's question or provide to the Councillor the information sought orally or in writing as the Councillor prefers.

If the employee is unable or unwilling to answer the Councillor's question or provide the information sought, the employee must give reasons to the Councillor and advise the General Manager.

### Example of Appropriate Interactions

Examples of appropriate interactions include, but are not limited to, the following:

- ✓ Councillors and Council staff are courteous and display a positive and professional attitude to one another;
- ✓ Council staff ensure that relevant information is made equally available to all Councillors, in accordance with this policy and any other relevant Council policies;
- ✓ Council staff record the advice they give to Councillors in the same way as if the advice was provided to a member of the public;
- ✓ Council staff, including the Executive Team members, document Councillor requests through the dedicated Councillor support area and process;
- ✓ Informal briefings and Councillor Workshops are used to establish positive working relationships and help Councillors gain an understanding of complex issues related to their civic duties, especially where Councillors will be required to make a Policy decision on an issue at an upcoming Council meeting;
- ✓ Councillors feel supported to approach authorised staff, and vice versa, to seek advice and clarification about issues; and
- ✓ Councillors forward requests for information through the channels identified by the General Manager and staff respond within agreed timeframes to these requests.



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### Example of Inappropriate Interactions

Examples of *inappropriate* interactions include, but are not limited to, the following:

- × Councillors approaching junior members of staff for information on sensitive or controversial matters;
- × Members of staff approaching Councillors directly (rather than through the General Manager) on staffing or political issues;
- × Councillors approaching staff outside Council workplaces or outside work hours to discuss Council business;
- × Staff refusing to give information which is available to other Councillors to a particular Councillor because of the staff member's or Councillor's political views;
- × Councillors who have lodged a development application (DA) before Council discussing the matter with junior staff;
- × Junior staff being asked to answer questions or provide documents to Councillors who are overbearing or threatening;
- × Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- × Staff providing advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community;

### Access to Documents

- While the General Manager is responsible for ensuring that Councillors have access to the information they need to perform their civic duties, Councillors have the same general right as members of the public to inspect and take away copies of records and documents and are subject to the same constraints.
- The provisions of the *Government Information (Public Access) Act 2009* (GIPA Act) are available to members of the Community and to Councillors. The GIPA Act requires Council to proactively release information on their website, while providing appropriate protection for individuals' privacy.
- Through this legislation, Council provides access to information held unless on balance it is contrary to the public interest to provide that information.
- Councillors have a right to inspect any record provided that it is relevant to the exercising of the Councillor's responsibility in his or her civic office and is not subject to privacy, confidentiality or legal restraint. This right does not extend to matters about which a Councillor is merely curious. Access to information that is not publicly available is upon request to the General Manager or relevant member of the Executive Leadership Team.
- Councillors who have a personal or pecuniary interest in a document of Council have the same rights of access as any other person as stipulated by the Code under the section 'Personal dealings with Council'.
- Any denial by the General Manager or their delegate to provide information requested by Councillors must be reasonable and reasons must be provided for the decision.
- Councillors are required to treat all information provided by Council staff appropriately and to observe by confidentiality requirements.
- Council staff will inform Councillors of any confidentiality requirements for information they provide so Councillors can handle information appropriately.
- Where a Councillor is unsure of confidentiality requirements, they can ask the authorised staff member or contact the Office of the General Manager.

### Access to Computer Systems by Councillors

- Councillors shall have the same access to Council's computer system as do members of the public.

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- Councillors also have access to productivity tools in the computer system but no access to Council records or databases, unless specifically identified and implemented for the purpose of supporting Councillors in their civil role at the discretion of the General Manager.

### Access to Council premises

- Councillors, as elected members of the Council, are entitled to have access to the Council Chambers, Mayor's Office and public areas of Council's buildings.
- Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public. As with members of the public, a Councillor has no right to enter staff-only areas without the expressed authorisation of the General Manager or Executive Leadership Team member, and be accompanied by a staff member.
- Councillors must ensure that when they are within a staff-only area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence to bear on Council staff decisions. Councillors should conduct themselves accordingly.

### Complaints Procedures

- **By a Councillor Against an Employee**
  - A complaint by a Councillor against an employee other than the General Manager must be made in writing addressed to the General Manager.
  - A complaint by a Councillor other than the Mayor against the General Manager must be in writing addressed to the Mayor.
  - A complaint by the Mayor against the General Manager must be set out in a confidential report to the Council meeting. The General Manager may be excluded by resolution of Council from the closed section of the meeting at which the report is considered.
  - On receipt of a complaint made under this part, the General Manager, the Mayor or the Council, as the case requires, must if of the opinion that the complaint has substance and seriousness, investigate the complaint and may take or recommend such action as considered appropriate.
- **By a Councillor Against a Councillor**
  - A complaint by a Councillor against a Councillor other than the Mayor must be in writing addressed to the Mayor or to the General Manager;
  - A complaint by a Councillor against the Mayor must be in writing addressed to the General Manager;
  - On receipt of a complaint under this part, the Mayor or General Manager (as the case requires) must, if of the opinion that the complaint has substance and seriousness, investigate the complaint and report the findings to Council without recommendation for the Council's decision.
- **By an Employee Against a Councillor**
  - A complaint by an employee against a Councillor must be in writing addressed to the General Manager;
  - On receipt of a complaint under this Section, the General Manager must, if of the opinion that the complaint has substance, investigate the complaint and report the findings to the Mayor. The Mayor may take such action as considered appropriate;



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- If the complaint concerns the Mayor, the General Manager must, if of the opinion that the complaint has substance and seriousness, investigate the complaint and report the findings to Council without recommendation for the Council's decision.

### Noncompliance with this Policy

- **Councillors**

- An alleged breach of this policy by a Councillor other than the Mayor may be reported to Council by the Mayor;
- An alleged breach by the Mayor may be reported to the Council by the General Manager;
- The Council may investigate an alleged breach of this policy in such a manner as it thinks appropriate;
- If the Council finds the breach substantiated, it may, in its discretion, take such action in relation to the Councillor concerned as is permitted by law. Without limiting this provision, the Council may require the Councillor to apologise to the elected member, employee or to the organisation as a whole in such a manner as it directs.

- **Employees**

- An alleged breach of this policy may result in disciplinary procedures and or dismissal.

## 6. RELATED DOCUMENTS & LEGISLATION

### Legislation

- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2021*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Privacy and Personal Information Protection Act 1998*

### Council Policies

- GOV002 – Use of Communication Devices Policy
- GOV007 – Privacy Management Policy
- GOV008 – Public Access to Information Held by Council Policy
- GOV010 – Provision of Facilities & Payment of Expenses Policy
- GOV018 – Code of Meeting Practice
- GOV020 – Code of Conduct Policy
- GOV022 – Legislative Compliance Policy
- GOV023 – Conflicts of Interest Policy

### Council Document

- Legislative Compliance Framework
- Governance Framework
- Conflict of Interest Register
- Privacy Management Plan

## 7. ATTACHMENTS

Nil.

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### **8. DOCUMENT APPROVAL**

This document is the latest version of the official policy of the Wentworth Shire Council, as adopted by Council on 16 March 2022. All previous versions of this policy are null and void.

This policy may be amended or revoked by Council at any time.

A PDF copy of the signed document can be accessed from Council's record management system and Reliansys.

Signed: .....

17 March 2022

**General Manager Wentworth Shire Council**

**Date**