

Councillor and Staff Interaction Policy

2020 Version 1.2



1 Policy Summary

The Councillor and Staff Interaction Policy provides guidance and support for Councillors and Council staff in the performance of their duties.

It complements the Councillor Code of Conduct and supports compliance with the standards of conduct provisions in the *Local Government Act 2020* (the Act) and the Local Government (Governance and Integrity) Regulations 2020.

2 Context

The Hobsons Bay City Council consists of the seven democratically elected Councillors (the electoral arm) and the organisation/staff (the operational arm). Councillors appoint the Chief Executive Officer (CEO) of the organisation, determine Council policies and set the strategic direction of the Council and the City. The organisation is responsible for the implementation of Council policy and decisions, service delivery and providing professional advice to Councillors.

Good governance and effective service delivery are dependent on how well the relationship between the elected members and the organisation works, as well as an understanding and adherence to the roles and responsibilities of both Councillors and the organisation.

3 Background

The functions of the (CEO) are defined in section 46 of the *Local Government Act 2020*, which provides that administrative management of Council is the responsibility of the CEO. This means that Councillors are not responsible for implementing Council actions. They also have no authority to direct Council staff. This section of the Act supports the facilitation of effective administration and prevents staff from being subject to conflicting directions. Clear lines of managerial authority are critical. However, Councillors are not prohibited from expressing their views about administration matters or implementation through the CEO.

Therefore Councillors must understand that all communication with Council staff must be in accordance with this policy put in place by the CEO. The policy gives formal effect to subsection 46(3)(c) of the Act, which provides that it is the responsibility of the CEO to manage interactions between Councillors and staff.

Councillors who attempt to improperly direct or influence a member of Council staff in the exercise of their duties will be in breach of subsection 123(3)(c) of the *Local Government Act 2020*. This provision specifically prohibits a Councillor misusing their position by “directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff”.

4 Objective

Policy objectives are to:

- recognise the respective roles and responsibilities of Councillors and Council staff, in particular the CEO, in accordance with the Councillor Code of Conduct
- assist Councillors and Council staff in respecting the roles and responsibilities of others in the organisation
- maintain transparent decision making and good governance arrangements
- support compliance with the provisions of the *Local Government Act 2020*
- recognise the responsibilities of the Council in ensuring that it meets the responsibilities of the *Occupational Health and Safety Act 2004* and the *Equal Opportunity Act 2010* to protect people from risks to their health and safety including harassment, bullying, violence and discrimination

5 Procedural Guidelines

The purpose of this policy is to ensure that Hobsons Bay City Council is efficient and effective, with high standards of governance and transparency. The following guidelines apply with respect to interactions between Councillors and Council staff:

- Council employs the CEO, who is responsible for the organisation. Therefore Councillors' primary point of communication should be the CEO or the applicable Director as delegated appropriate by the CEO
- Councillor contact with other Council staff will be in accordance with the protocols outlined in this policy
- Councillors are prohibited under subsection 123(3)(c) of the Act from directing or seeking to influence Council staff
- Councillors and Council staff must meet their respective obligations in responding to community requests to maintain appropriate discretion, transparency and adherence to mitigating any conflict of interest, including adherence to privacy principles, in responding to any such requests
- if a Councillor or staff member has concerns regarding communications between Councillors and Council staff the matter will be referred to the CEO, who is responsible for the management of such interactions under subsection 46(3)(c) of the Act

6 Protocols

To achieve good governance, clear and effective communication protocols for Councillors and Council staff are essential. In Hobsons Bay the protocols which apply to Councillors and Council staff communication are:

- an individual Councillor is not to direct, unduly influence or apply directional pressure to the decision of any Council staff
- all communications between Councillors and Council staff must be courteous and respectful
- unless otherwise specified in Table 1.0, Councillors seeking information or wishing to make comment on a specific matter should do so either via the CEO or, if the matter specifically relates to a particular directorate, the Councillor may contact the relevant Director
- contact between Councillors and Council staff outside of this policy must not occur
- Council staff are to inform their Manager, Director or the CEO of any contact made directly to them by Councillors. If a staff member believes the contact is outside of this policy the Manager, Director and the CEO should also be advised accordingly
- to ensure responsive resolution, Councillors MUST also refer all formal enquiries or requests for information or action to the Executive Assistant to Mayor and Councillors to ensure that all requests are logged through and closed out in Council's CHARM system
- the CEO and/or Directors MUST be copied in or otherwise formally advised of all communication between their staff and Councillors
- unless otherwise identified in a specific case, ALL responses to Councillor enquiry will be in writing and must be provided by the CEO or the applicable Director as delegated by the CEO
- where a Councillor requests information that may be of relevance to other Councillors, such information will be circulated to ALL Councillors
- responses relating to administrative or Information Technology matters will be provided to Councillors by the applicable administrative, Governance or Digital Services staff
- All matters related to media enquiries, responses, releases and identified spokespeople will be governed by the terms and protocols outline in Council's Media Policy
- social media interaction between Councillors and Council staff is discouraged. However, it is recognized that many staff are residents of Hobsons Bay, and in circumstances where these associations exist, strict adherence to the Council Codes of Conduct is required

- Councillors are provided with building access to the Councillors' office and meeting rooms (24 hours per day, seven days per week), and to the CEO and Councillor Support area (9.00am to 5.00pm Monday to Friday)
- Councillors do not have access to the operational staffing areas of Council facilities unless escorted by the CEO or Director, which can be arranged through the Executive Assistant to Mayor and Councillors

	Business Area						
COUNCILLOR AND STAFF INTERACTION PROTOCOL	Executive Assistant to the Mayor and Councillors (first contact point)	Chief Executive Officer	Applicable Director	Manager Communications, Community Engagement & Advocacy	Manager, Corporate Integrity (Legal Counsel)	Manager Digital Services	Information Systems Helpdesk and administrative staff
Matter							
Policy Direction and Gaps		x	x				
Service Development and Review		x	x				
Routine Service Delivery and Projects	x		x				
Media and Communications Issues or Advice		x	x	x			
Governance Issues or Advice	x	x	x		x		
Information Systems or administrative day to day service matters	x					x	x
Administration of a committee or a forum/ business or service related content of committee or forum	x	x	x				
Councillor Code of Conduct Matters		x	x		x		
Enforcement related matters		x	x		x		
<i>Planning and Environment Act 1987</i>		x	x				

Table 1.0 – Councillor and Staff Interaction Table

7 Explanatory Comment

Policy Direction and Gaps

Where issues relate to policy direction, gaps or contradictions in policy, consideration of alternatives, impact analysis, forward scheduling, budget proposals or priority timetables.

Service Development and Review Issues

Where Councillors are seeking clarification on service development and review such as perceived service failure, further information on matters sent to Councillors by the administration, interpretation of a policy, clarification of a service level, management response to emerging trends, or information on priority of services or works within a project plan.

Routine Service Delivery and Projects

Where Councillors are seeking information on day to day service and project matters such as perceived minor service failure, information on service levels, information on scheduling of work, or service-related advice to a member of the public.

Where Councillors receive requests from members of the public in the first instance they should request the member of the public to log a service request via the customer service team and to obtain a service request number to assist any investigation of that enquiry. This approach will enable Councillors to consider performance against documented service standards.

Councillors may lodge resident or Councillor service requests with the Executive Assistant to the Mayor and Councillors, preferably via the crrequest@hobsonsabay.vic.gov.au inbox. The use of Snap Send Solve is also encouraged for use by residents and Councillors.

Media and communications Issues

All media and communication requests should be made through the CEO, relevant Director or to the Manager Communications, Community Engagement & Advocacy.

Information systems or administrative matters

Where the issue is relatively simple, such as a general administrative matter, an enquiry regarding timing of service delivery or IT equipment support, Councillors should direct enquiries via the Executive Assistant to the Mayor and Councillors in the first instance. Councillors may be referred to the Information Systems Helpdesk if necessary to resolve an IT related matter.

Any associated or more complex issues, including service complaints, are to be raised by Councillors with the applicable Director or the CEO.

Enforcement Issues

In accordance with the prohibition section 123(3)(c) of the *Local Government Act 2020* against Councillors improperly directing or influencing members of Council staff, inappropriate involvement by Councillors in any stage pertaining to matters of investigation or enforcement must not occur for any reason.

Council makes delegations and authorisations to various Council staff who must, without fear or favour, investigate and enforce various legislation including the *Domestic Animals Act 1994*, *Environment Protection Act 1970*, *Food Act 2010*, *Health Act 1958*, *Planning and Environment Act 1987*, *Road Safety Act 1986* and the Community Local Laws.

Delegated and authorised officers must be able to perform investigation, determination of response, management of infringements and prosecutions in a manner that is free of improper direction or improper influence.

Where members of the community seek support in relation to such matters they should be referred to the documentation already provided, including relevant staff identified and available to be contacted.

Consideration of appeals against infringement notices will be undertaken in accordance with the relevant guidelines published by the Attorney-General and Council's internal appeals procedures.

Councillors may contact the CEO or relevant Director or the Manager Corporate Integrity (Legal Counsel) with any requests for information regarding such matters. The provision of related information will be applied in accordance with the Information Privacy Principles set out in the *Privacy and Data Protection Act 2014*.

Planning and Environment Act Issues

Council has significant responsibilities under the *Planning and Environment Act 1987*. It is important that Councillors are not excluded from participation and that the decision making of Council is not tarnished by perceptions of bias, predetermination, inappropriate direction or inappropriate influence.

8 Complaints

If a Councillor or a member of Council staff considers that either has breached the requirements of this protocol, they:

- a) may immediately terminate the interaction with the Councillor or Council staff member
- b) must report, in relation to a Councillor, what has occurred to the CEO or Director Corporate Services who must inform the Councillor of the nature of the complaint; or
- c) must report, in relation to a member of Council staff, to the CEO the nature of the complaint

The CEO or a person selected by the CEO for the purpose who is independent of the parties may, if it is practicable to do so, encourage the Councillor and member of Council staff to attend a mediation. If held, the mediation and everything said or done with respect to the mediation must be kept confidential by the CEO, Councillor and member of Council staff.

If it is not practicable to encourage the parties to attend a mediation or:

- a) encouragement is given but the mediation does not take place
- b) the mediation takes place but the Councillor or member of Council staff still feels aggrieved by the interaction which occurred

The CEO may progress the handling of the complaint in the manner set out in the Councillor Code of Conduct or alternatively the Employee Code of Conduct to resolve disputes.

9 Related Documents

Councillor Code of Conduct (A2707030)

Council's Media Policy (A2707004)

10 Related Legislation

Local Government Act 2020

Local Government (Governance & Integrity) Regulations 2020

11 Document Control

Policy Name:	Councillor and Staff Interaction Policy
Object ID	A3442629
Responsible Directorate	Office of the CEO
Responsible Officer:	Chief Executive Officer
Date Approved by CEO:	10 November 2020
Review Date:	Council Term 2020-2024

12 Version History

Version Number	Date	Details
<i>Councillor and Staff Interaction Protocol</i>		
	17 November 2009	Approved by Council
	5 July 2011	Approved by Council
	12 March 2013	Approved by Council
<i>Chief Executive Officer, Councillor and Staff Interaction Protocol</i>		
1.0 (A2506793)	31 October 2016	Approved by the Chief Executive Officer
1.1 (A2506793)	23 April 2018	<ul style="list-style-type: none"> • Transfer of Policy to new Policy document format • Minor update to section 7 - reference to s76E of the <i>Local Government Act 1989</i>
<i>Councillor and Staff Interaction Policy</i>		
1.2 (A3443639)	12 November 2020	Approved by the Chief Executive Officer