



Hawkesbury City Council

attachment 1  
to  
item 79

Draft Provision of Information and  
Interaction between Councillors  
and Staff Policy

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location: council chambers  
time: 6:30 p.m.





Hawkesbury City Council  
Policy

Hawkesbury City Council

**DRAFT**

Provision of  
Information and  
Interaction between  
Councillors and Staff  
Policy

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**1.0 TITLE**

Provision of Information and Interaction between Councillors and Staff Policy.

**2.0 PURPOSE**

The purpose of this Policy is to provide guidelines to assist Councillors and staff to understand their respective roles and responsibilities with regard to Councillor's requests for access to Council information and documents.

Personal interaction between Councillors and senior Council officers is often required regarding access to and provision of information, in order to achieve effective policy-making and service delivery. This Policy outlines the rights of Councillors to access and use Council information, how Councillors are able to exercise those rights, the limitations on those rights, and the rights and responsibilities of Council staff when responding to Councillor's requests for information.

This Policy also contains guidelines relating to other types of interactions between Councillors and staff, as a supplement to Council's Code of Conduct.

**3.0 SCOPE**

This Policy applies to all Council officials, including Councillors, staff members, volunteers, committee members, and contractors employed by Council.

The requests for information referred to in this Policy are requests that Councillors are permitted to make in accordance with Part 8 of Council's Code of Conduct.

In some cases, a Councillor may be required to lodge a formal or informal access to information request in accordance with the requirements of the *Government Information (Public Access) Act 2009* (GIPA Act). If a Councillor has lodged a GIPA application, the application will be dealt with in accordance with Council's Access to Information Policy and the relevant legislation.

**4.0 OBJECTIVE**

The objective of the Policy is to provide guidance to both Councillors and staff in respect to Councillor requests for access to Council information and documents, and other interactions between Councillors and staff, consistent with the requirements outlined in Council's Code of Conduct.

**5.0 ROLES AND RESPONSIBILITIES**

Authorised Officer	Roles and Responsibilities
All Council Staff or Council Officials	<ul style="list-style-type: none"><li>Abide by the provisions of this Policy.</li><li>Engage in appropriate interactions with Councillors.</li><li>Keep records of interactions with Councillors in accordance with Council's records management policies and procedures.</li></ul>
Councillors	<ul style="list-style-type: none"><li>Abide by the provisions of this Policy.</li><li>Engage in appropriate interactions with senior Council staff members.</li><li>Be responsible in the use of information provided in accordance with this Policy, including ensuring appropriate security of the information and abiding by any privacy and confidentiality restrictions.</li></ul>



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General Manager and Directors	<ul style="list-style-type: none"><li>• Provide Councillors with the information and advice necessary to effectively carry out their official functions.</li><li>• Evaluate information requested by Councillors in order to address any legal restrictions on the provision or use of the information (for example, privacy legislation) and provide appropriate advice to Councillors.</li></ul>
Public Officer	<ul style="list-style-type: none"><li>• Ensure that Councillors are able to make formal and informal requests for information in accordance with the provisions of the GIPA Act and Regulation.</li></ul>
Manager Corporate Services and Governance	<ul style="list-style-type: none"><li>• Provide advice to senior Council staff in relation to this Policy.</li><li>• Provide advice to senior Council staff in relation to privacy and other legal requirements that may apply to information requested by Councillors.</li><li>• Coordinate and authorise the determination of formal and informal GIPA requests lodged by Councillors.</li><li>• Undertake reviews of the Policy as required.</li></ul>

**6.0 DEFINITIONS**

**Confidential information**

Any information to which access is restricted to authorised persons only, and to which access can be granted by authorised persons only, for reasons that can be justified by legislation.

**Council**

The Hawkesbury City Council.

**Council staff or Council officials**

Employees on the staff of Council, committee members, contractors, consultants and volunteers representing Council in an official capacity.

**Councillor**

Any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils.

**GIPA Act and GIPA Regulations**

The *Government Information (Public Access) Act 2009* and associated *Government Information (Public Access) Regulation 2018*.

**Information**

Information contained in a record held by Council, including hard copy or paper records; electronic records contained in the Electronic Records Management System, other databases, or software programs; audio or visual recordings.

**Personal information**

Any information which can be used to identify a person. Personal information usually includes names, residential and postal addresses, email addresses, phone numbers, photographs, vehicle license plates, and may include other information based on context.



#### Records

Defined in the Australian Standard on Records Management as “Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business.” More simply, a record is anything which contains information or evidence of a business transaction. Records can include, but are not limited to, hard copy and electronic documents, emails, photographs, minutes, audio or video recordings, diary entries, and file notes.

#### 7.0 RELATED POLICY PROVISIONS

- Council’s Code of Conduct
- Local Government Act NSW 1993
- State Records Act 1998
- Council’s Records Management Operational Management Standard
- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulations 2009
- Guidelines, factsheets and other information published by the Information & Privacy Commissioner (IPC)
- Privacy and Personal Information Protection Act NSW 1998
- Health Records and Information Privacy Act 2002
- Privacy Code of Practice for Local Government
- Council’s Privacy Management Plan

#### 8.0 PROCEDURE

##### Councillors’ rights to information

Elected Councillors have a right to access records and information held by the Council, provided that the information is necessary to enable them to carry out their official functions effectively. As a general rule, information considered to be necessary for the exercising of a Councillor’s civic responsibility is information relevant to matters before a Council meeting, either currently, within the current term of the Council, or known to be coming before Council in the near future.

Councillors may approach the General Manager, Public Officer, or an appropriate delegate of the General Manager (being a Director or the Manager Corporate Services & Governance as outlined in Section 4 of this Policy), in order to request access to Council information.

The staff member responsible for handling the request will take into account any legal requirements of privacy and confidentiality that may have an impact on the Councillor’s right to access the information, and will advise the Councillor accordingly.

The staff member must provide the information to the Councillor in a full and timely manner, sufficient to allow the Councillor to make use of the information in the relevant official function. Once the information has been provided to the Councillor, the staff member must also make the information available to any other Councillor who requests it.

If required, the staff member responsible for handling the request may ask the Councillor to justify the relevance of the information to the official function, in order to ensure that the requirements of this Policy are met.





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#### **Restrictions on Councillors' requests for information under this Policy**

Notwithstanding the above, a Councillor who has declared to have a conflict of interest regarding a matter, and is therefore precluded from participating in the consideration of the matter under the Code of Conduct, is not entitled to request access to information regarding the matter in question under the provisions of this Policy. In that case, the Councillor will be required to request to access the information in accordance with one of the methods provided by the GIPA Act.

Councillors who have a private interest only in Council information are also required to request access to the information in accordance with the GIPA Act.

Formal and informal GIPA requests lodged by Councillors will be determined in accordance with Council's Access to Information Policy. The Councillor as the applicant will have the same rights under the GIPA Act as any other member of the public.

If a matter is not currently before the Council, but the Councillor is considering bringing the matter before Council in the future, the Councillor may also request access to the information by way of a Notice of Motion.

#### **Refusal to provide information**

If the staff member responsible for handling the request has decided that the Councillor's request to access the information should be refused, in whole or in part, the officer must provide a justification of the decision to the Councillor in writing, outlining the reason(s) for the decision and what factors were taken into account when making the decision (e.g. legal advice, privacy requirements, relevance to the Councillor's official function).

#### **Councillors' responsibility to use information appropriately**

Once information has been provided in response to a Councillor's request, the Councillor must ensure that they comply with their responsibility under Section 439 of the Local Government Act to act honestly and exercise a reasonable degree of care and diligence, by properly examining and considering the information.

The Councillor must not use the information for private purposes, or to seek to obtain any financial benefit or other advantage for themselves or any other person or body.

Councillors do not have the authority to release information to the public on behalf of Council. Any information provided to Councillors under the provisions of this Policy is considered to be confidential information held by the Councillor. Councillors must not circumvent the provisions of the GIPA Act by providing access to information directly to members of the public. Members of the public wishing to access Council information should be advised by the Councillor to contact Council officers for assistance with lodging a GIPA request.

Councillors are required to preserve the confidentiality of information that they are provided with, including by practising responsible storage of the information in hard copy and/or electronic formats. When dealing with personal information of other people, Councillors must abide by all relevant legislation, including Council's Privacy Management Plan, the *Privacy and Personal Information Act 1998*, the *Health Records and Information Privacy Act 2002*, and the Privacy Code of Practice for Local Government.

Councillors are not permitted to destroy, alter, or dispose of original versions of Council information or records. Councillor enquiries about alteration or disposal of Council records must be directed to Council's General Manager or senior staff member, who will consult with Council's Corporate Services and Governance Department regarding the requirements of the *State Records Act 1998*.

Councillors are responsible for the safe keeping and secure disposal of their Confidential Business Papers.



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**Recordkeeping responsibilities**

All Councillors and staff are required to abide by the requirements of the *State Records Act 1998* and Council's records management policies and procedures. All requests for information and advice made by Councillors, and the responses to those requests, must be treated as Council records and managed in accordance with the legislation.

Therefore, it is recommended that Councillors put all requests for information or advice in writing, for the request to be stored appropriately in Council's Records Management System.

Staff handling Councillor enquiries are required to document their interactions with Councillors, including making records of telephone calls and email exchanges, in accordance with the legislation.

**Other interactions between Councillors and staff**

Councillors must not:

- Give directions to Council staff, other than by way of Council or Committee resolution, or by the Mayor's functions outlined in Section 226 of the Local Government Act;
- Approach staff to discuss individual or operational staff matters, grievances, workplace investigations, or disciplinary matters;
- Discuss personal business (e.g. a development application lodged by the Councillor) with Council staff in staff-only areas of the Council;
- Direct or influence, or attempt to direct or influence, any staff member in the exercise of the staff member's functions;
- Contact or issue instructions to Council's contractors or legal advisers (except in the case where information is required directly from Councillors by Council's external auditor);
- Approach members of the Local Planning Panel to discuss any development application, except during a Local Planning Panel Meeting where the development application is on the agenda and the Councillor has formally applied to speak at the meeting;
- Be overbearing or threatening towards staff, or otherwise breach the General Conduct standards of Council's Code of Conduct;
- Contact a staff member on Council-related business unless in accordance with this Policy.

Council staff must not:

- Approach Councillors to discuss individual or operational staff matters, grievances, workplace investigations, or disciplinary matters;
- Be overbearing or threatening towards Councillors or otherwise breach the General Conduct standards of Council's Code of Conduct;
- Provide ad hoc information and advice to Councillors without recording the interaction in accordance with Council's records management policies and procedures;
- Provide information and advice to Councillors without appropriate delegation or authorisation from the General Manager.