

▶ COUNCILLOR STAFF INTERACTION POLICY

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NAME OF POLICY:	Councillor Staff Interaction Policy
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DATE APPROVED:	18 May 2021
RESPONSIBLE OFFICER:	Manager Governance and Risk
REFERENCES:	<i>Local Government Act 2020</i> <i>Local Government (Governance and Integrity) Regulations 2020</i> Councillor Code of Conduct Employee Code of Conduct Council's Respectful Relationships Policy – Policy 33 (C).

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Service Performance Principles as defined in section 106 of the *Local Government Act 2020*

Service performance principles:

(1) A Council must plan and deliver services to the municipal community in accordance with the service performance principles.

(2) The following are the service performance principles—

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;
- (b) services should be accessible to the members of the municipal community for whom the services are intended;
- (c) quality and costs standards for services set by the Council should provide good value to the municipal community;
- (d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring;
- (e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

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1. PURPOSE

The purpose of this Policy is to provide for a framework of appropriate interactions for Councillors and Employees of the Hepburn Shire Council to follow to allow for the efficient and effective transaction of business to occur where high standards of good governance and transparency principles are achieved.

The undertaking of the Councillor and Staff Interaction Policy is seen to be an integral achievement of the objectives and principles as detailed in Council's key legislation, the *Local Government Act 2020*.

The Chief Executive Officer as an express obligation under section 46(3)(C) of the *Local Government Act 2020* to:

'manage the interactions between members of Council Staff and Councillors and ensuring that policies, practices, and protocols that support the arrangements for interactions between members of Council staff and Councillors are developed and implemented'.

This Policy should be read in conjunction with the Councillor Code of Conduct – Policy 47 (C) and the Employee Code of Conduct, as well as Council's Respectful Relationships Policy – Policy 33 (C).

2. SCOPE

This Policy relates to Councillors and all employees of the Hepburn Shire Council.

References to interactions includes contact between Councillors and staff where the content or matter relates to the business of Council and includes Councillor requests for information and service requests.

Channels of contact may include, but are not limited to, phone (including text), in person, by email or online and through digital and social media platforms.

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

The Policy does not seek to limit Councillors expressing their views about operational matters but rather outlines how such matters will be communicated. Councillors may contact the CEO on any matter as required.

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3. FAILURE TO COMPLY

Failure of a Councillor to comply with provisions outlined in this Policy for both Councillors and Employees will be assessed in line with the respective Codes of Conduct.

Penalties and actions may relate to specific breaches, and whether those breaches relate to legislation or develop process as detailed in this Policy.

4. LEGISLATIVE CONTEXT

The Policy has been prepared to satisfy the requirements of the *Local Government Act 2020*, specifically 46(3)(C) of the *Local Government Act 2020*.

Specifically, this Policy complements the Councillor and Employee Codes of Conduct, and the following provisions in the *Local Government Act 2020* and *Local Government Act 1989*:

- Role of a Councillor – section 28 of the *Local Government Act 2020*
- Role of the Chief Executive Officer – section 44 and 46 of the *Local Government Act 2020* and section 94A of the *Local Government Act 1989*.
- Councillor Conduct Standards – Standard 1 - Treatment of Others – Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*
- Councillor Conduct Standards – Standard 2 – Performing the Role of a Councillor - Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*.
- Councillor Conduct Standards – Standard 3 – Compliance with Good Governance Measures - Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020*
- Directing a member of Council Staff – section 124 of the *Local Government Act 2020*
- Misuse of Position – section 123 of the *Local Government Act 2020*.

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5. KEY DEFINITIONS

Term	Definition
Acting Chief Executive Officer	<p>Where there is a vacancy in the office of the Chief Executive Officer or the Chief Executive Officer is unable to perform the duties of the Chief Executive Officer, the Council appointed Acting Chief Executive Officer in accordance with section 44(4) of the <i>Local Government Act 2020</i>.</p> <p>The terminology of Acting Chief Executive Officer is also used interchangeably with the term Interim Chief Executive Officer as determined from time to time by Council resolution.</p>
Chief Executive Officer	The Chief Executive Officer as appointed by Council in accordance with section 44 of the <i>Local Government Act 2020</i> .
Council	Hepburn Shire Council.
Councillors	Elected representatives of the Hepburn Shire Council.
Members of Council Staff	Appointed by the Chief Executive Officer in accordance with section 48 of the <i>Local Government Act 2020</i> to enable the functions of Council under the <i>Local Government Act 2020</i> or any other act to be performed

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Overarching Governance Principles	Means the principles specified in section 9 of the <i>Local Government Act 2020</i> .
Interactions	The communications, exchanges and interactions between Members of Council Staff, the Chief Executive Officer and Councillors. The interactions are two way.
The Act	The <i>Local Government Act 2020</i> .
Councillor Code of Conduct	Means the Councillor Code of Conduct as developed, prepared and adopted by Council under section 139 of the <i>Local Government Act 2020</i> .
Employee Code of Conduct	Means the Employee Code of Conduct as developed and prepared under section 49 of the <i>Local Government Act 2020</i> , or section 95AA of the <i>Local Government Act 1989</i> .

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6. GOVERNANCE PRINCIPLES

A Council must in the performance of its role give effect to the overarching governance principles.

The following are the overarching governance principles—

- a) Council decisions are to be made and actions taken in accordance with the relevant law;
- b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- d) the municipal community is to be engaged in strategic planning and strategic decision making;
- e) innovation and continuous improvement is to be pursued;
- f) collaboration with other Councils and Governments and statutory bodies is to be sought;
- g) the ongoing financial viability of the Council is to be ensured;
- h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- i) the transparency of Council decisions, actions and information is to be ensured.

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7. ROLE OF A COUNCILLOR

In accordance with section 28 of the *Local Government Act 2020*:

The role of every Councillor is—

- a) to participate in the decision making of the Council; and
- b) to represent the interests of the municipal community in that decision making;
and
- c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.
- d) (2) In performing the role of a Councillor, a Councillor must—
- e) consider the diversity of interests and needs of the municipal community; and
- f) support the role of the Council; and
- g) acknowledge and support the role of the Mayor; and
- h) act lawfully and in accordance with the oath or affirmation of office; and
- i) act in accordance with the standards of conduct; and
- j) comply with Council procedures required for good governance.

To achieve that position, Councillors need to:

- Accept that their role is a leadership, not a management, operational or administrative one.
- Acknowledge that, under the *Local Government Act 2020*, the Chief Executive Officer is primarily responsible for staff.
- Acknowledge that, under the *Local Government Act 2020*, they have no capacity to individually direct members of staff to carry out particular functions.
- Refrain from using their position to improperly influence members of staff in their duties or functions, or to gain an advantage for themselves or others.
- Refrain from publicly criticising staff in a way that casts aspersions on their professional competence or credibility.
- Take no part (direct or indirect) in any personnel matter relating to a staff member or any appointment of staff except in the case of position of Chief Executive Officer.
- Neither seek nor encourage the involvement of any member of staff in promoting the election of any candidate for election as a Councillor.

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- Councillors should maintain at all times a professional relationship with staff, acting with respect and integrity at all times.

Councillors should not be overbearing or threatening to Members of Council Staff.

Under the *Local Government Act 2020*, Councillors are obliged to adhere to section 124 which relates to improper or undue influence.

Councillors are prohibited under section 124 to improperly direct or interact with Council staff.

A Councillor must not direct, or seek to direct, a member of Council Staff:

- a) In the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
- b) In the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under the Act or any other Act;
- c) In the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under the Act or any other Act; or
- d) In relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

Improper or undue influence could include:

- Disrespecting the professional opinion, skill or expertise of staff through intimidation, bullying, harassing or disrespectful behaviour
- Using rank or position to seek information outside the processes detailed in the Policy
- Pressuring staff to make a decision outside the formal council decision making processes.

This is outlined in Councillors Code of Conduct as adopted in February 2021.

8. ROLE OF THE CHIEF EXECUTIVE OFFICER

Section 46 of the *Local Government Act 2020* states that the Chief Executive Officer is responsible for:

- supporting the Mayor and the Councillors in the performance of their roles; and
- ensuring the effective and efficient management of the day to day operations of the Council.
- Responsibility, amongst other duties includes:
 - ensuring that the decisions of the Council are implemented without undue delay;
 - ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;
 - supporting the Mayor in the performance of the Mayor's role as Mayor;
 - setting the agenda for Council meetings after consulting the Mayor;
 - when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
 - carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Workplace Injury Rehabilitation and Compensation Act 2013*;
 - establishing and maintaining an organisational structure for the Council;
 - being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
 - managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented;
 - performing any other function or duty of the Chief Executive Officer specified in the *Local Government Act 2020* or any other Act.

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The Chief Executive Officer must:

- develop and maintain a workforce plan that:
 - describes the organisational structure of the Council; and
 - specifies the projected staffing requirements for a period of at least 4 years; and sets out measures to seek to ensure gender equality, diversity and inclusiveness; and
 - inform the Council before implementing an organisational restructure that will affect the capacity of the Council to deliver the Council Plan; and
 - consult members of Council staff affected by a proposed organisational restructure, before implementing the organisational restructure.
- A Council and the Chief Executive Officer must, in giving effect to gender equality, diversity and inclusiveness, comply with any processes and requirements prescribed by the regulations for the purposes of this section.
- A Chief Executive Officer must ensure that the Mayor, Deputy Mayor, Councillors and members of Council staff have access to the workforce plan.
- A Chief Executive Officer must develop the first workforce plan under this section within 6 months from 1 July 2021.
- The Chief Executive Officer may also, through instrument of delegation, delegate any duty, power or function of Council that has been delegated to the Chief Executive Officer by the Council to:
 - A member of Council staff;
 - The members of a Community Asset Committee.
- A Chief Executive Officer must also submit an annual report to the Council in relation to the activities and performance of a Community Asset Committee in respect of which members have been given delegation, and
- Keep a register of delegations made under section 47 of the *Local Government Act 2020*.

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9. ROLE OF EMPLOYEES OF COUNCIL (STAFF, MEMBERS OF COUNCIL STAFF, OFFICERS OF COUNCIL)

Members of Council staff are appointed as employees of Council, operating to the implementation of the Council Plan and Vision and implementation of Council decisions, fulfilling a service delivery capacity and providing professional and technical advice to Councillors to enable the transaction of business to occur.

Collectively with Councillors, the Hepburn Shire Council operate to improve the vitality and life of Hepburn Shire constituents.

Some members of Council staff have delegated authority or operate in an authorised statutory function that is provided for under various instruments of delegation and instruments of appointment to authorised officers.

Staff make up the administrative arm of the organisation and are accountable to their supervisions, managers, directors and ultimately the Chief Executive Officer.

Staff recognise that that Councillors have the primary role in:

- Representing the Community;
- Setting the objectives and strategies to achieve the Council Plan and Council Vision;
- Establishing and adopting the Annual Budget, Long Term Financial Plan and other required legislative plans;
- Monitoring the progressive achievement of those objectives and strategies.

In doing so, members of Council staff will:

- Acknowledge the leadership role of Councillors and accept their own role in the areas of management and administration;
- Be responsive to requests from Councillors for information and professional advice required to carry out their role;
- Provide professional advice and then accept and implement the decisions of Council;
- Refrain from lobbying the Councillors or using personal influence to gain an advantage for themselves or others;
- Refrain from public criticism of Councillors;

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- Not accept instruction or direction from councillors in relation to their professional duties and refer perceived instruction or direction to Manager and / or Director
- Not directly or indirectly approach Councillors in regards to matters of a personal nature unless it is in their capacity as a constituent of the Shire;
- When a consultative process has begun and a Councillor has been involved in that process, staff will ensure that the Councillor is informed of any substantial development relating to that particular area.
- •Members of Council staff should maintain at all times a professional relationship with Councillors, acting with respect and integrity at all times.
- Officers should not be overbearing or threatening to Councillors.

Any enquires relating to this Policy should be directed to the Chief Executive Officer, Director or Manger Governance and Risk.

10. INTERACTIONS BETWEEN COUNCILLORS AND MEMBERS OF COUNCIL STAFF

Councillors will generally interact with members of council staff for the following reasons:

- Requests for information
- Requests for service (generally on behalf of others)
- General discussion about Council matters
- During Councillor Briefing meetings, Council Meetings or advisory committee or project reference groups or community reference group meetings and follow up.

Members of Council Staff will generally interact with Councillors for the following reasons:

- Capacity as the representative officer of advisory committees or other committees of Council such as project reference groups or community reference groups.
- Preparation of Councillor Briefing Reports and associated presentations on matters
- Preparation and presentation of Council reports at Special and Ordinary Council Meetings on matters.

Interactions between Councillors and members of Council staff should occur through the Chief Executive Officer (CEO) or Directors (who together form part of the Executive Leadership Team) and Managers (who form part of The Leadership Team).

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It is also appropriate for Councillors to contact the following staff in relation to their roles and functions:

- Executive Assistant to the CEO and Councillors
- The Governance Team
- Officers supporting advisory committees and community reference groups or project reference groups.

Councillors should always cc (in email) managers and directors when undertaking the above as much as reasonably possible.

For service requests, Councillors in the first instance are encouraged to lodge the request via Council's website.

If lodging of the request is not possible then Councillors should direct their enquires directly to Directors and Department Managers to follow up on service requests or requests for information.

Staff other than the CEO, Directors, Managers or those listed above are to advise their Manager if a Councillor has contacted them without the prior approval of the Manager or Director.

All members of Council Staff should include their manager via cc (in email) in correspondence they are sending to Councillors.

Correspondingly, members of staff should not seek or make direct contact with Councillors without their Managers consent.

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11. REQUESTS FOR INFORMATION

11.1. VIA THE CHIEF EXECUTIVE OFFICER OR DIRECTOR

All requests for information should be directed to the Chief Executive Officer, the relevant Director or Manager who will work with members of Council staff to prepare a response to each request.

If a request from a Councillor relates to matters which is a whole of Council significance or relevance then all the Councillors will be copied into the reply.

The CEO should be copied in or otherwise informed of all communication between members of Council staff and Councillors.

11.2. COUNCILLOR BULLETIN

The establishment of the Councillor Bulletin and continued dissemination each week provides Councillors with regular high-level updates from relevant Departments on key updates that members of Council staff believe Councillor should or would want to be aware of.

The key contact at the end of each bulletin item is the relevant Department Manager should Councillors wish to seek further information on that item.

11.3. UNREASONABLE REQUESTS

Where the CEO or a Director determines that the request to be unreasonable, or the information cannot be provided, they must state to the Councillor the reasons for the decision if access is refused.

Examples of what is unreasonable may include:

- Information that is not readily available and would require significant officer resource to gather;
- Is not required for the Councillor to perform their civic duty and is operational in nature;
- Information that is protected by privacy provisions or legislation – for example the number of freedom of information requests in action may be provided on request, but Officers would not disclose the name of the applicant or the details of the information being sought, or where a Councillor wishes to know details of a

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personal affair nature of a complainant or any information that may unreasonably disclose someone's identify;

- Information relating to staff personnel files;
- Information relating to Public Interest Disclosure matters that Council's Public Interest Disclosure Officer is managing through direct receipt, or via an IBAC or Victorian Ombudsman enquiry.

11.4. OPTIONS FOR COUNCILLORS WHERE INFORMATION IS REFUSED AND COUNCILLORS DISAGREE WITH CEO DETERMINATION

If a Councillor is seeking information that is refused from the Chief Executive Officer, or requests action the following mechanisms can be elicited to seek information or for a decision to be determined by Council:

- Calling of a special council meeting
- Admission of urgent business
- A notice of motion

All of the above can be enacted provided that they meet the requirements of the Hepburn Shire Council Governance Rules and do not breach any state or commonwealth legislation i.e., Privacy and Data Protection Act 2014, the *Local Government Act 2020*, Public Interest Disclosure Act 2012 or the Freedom of Information Act 1982 by way of example.

11.5. CONFIDENTIAL INFORMATION AND PRIVACY PROVISIONS

Councillors are required to treat all information provided by staff appropriately and confidentially in line with the Privacy and Data Protection Act 2014, Council's Privacy Policy and section 125 of the *Local Government Act 2020*.

If a Councillor is unsure whether a document or advice is confidential, they should contact the CEO or the relevant Director for clarification prior to releasing the information.

Where possible staff will clearly identify information which is confidential to assist Councillors in the appropriate handling of such information, however it is the Councillors responsibility to ensure they use the information in an ethical and legal manner.

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12. MANAGING CORRESPONDENCE AND COMMUNITY REQUESTS

In the first instance, Councillors should advise community members to log request for service through Council directly.

When a Councillor receives a letter or email addressed to them personally, they will need to make a judgement as to whether the correspondence should be forwarded to the relevant Director for action or if the correspondence was simply of a persona nature to them as an individual.

While Councillors are not required to forward all correspondence to Council to be registered, they should be aware that correspondence receive in the course of their duties are classified as Council records, including any email sent to or from their Councillor email account, which is searchable under Freedom of Information provisions and or could be subpoenaed.

13. EMPLOYEE MATTERS

If a Councillor has any concerns in regards to the way in which they have been treated or responded to by a member of Council staff, those concerns should only be raised with the relevant Director or the Chief Executive Officer who has exclusive responsibility for all personnel matters.

14. USE OF COUNCILLOR EMAIL ADDRESSES AND PHONES

When contacting Council or a member of Council staff as a private constituent, or regarding personnel matters, Councillors are encouraged to use their personal phones and email addresses, rather than their Council issued phone and email.

Councillors are also encouraged to include the Manager of the Department in the correspondence.

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15. REVIEW

The Councillor Staff Interaction Policy will be reviewed at a minimum, once every 4 years in line with the Council Term, or earlier if necessary, or due to legislative reform.

16. VERSION

Version Number	Title	Adoption Date	Description of change
1.0	Councillor Staff Relationship Policy	2014	Initial release
1.2	Councillor Staff Interaction Policy	May 2021	Full review and revision, inclusion of new legislation, provisions, template and title of policy.