

MURRAY RIVER COUNCIL
COUNCIL POLICY

**COUNCILLOR
AND
EMPLOYEE
INTERACTION
POLICY**

POL-105.V#2

This policy is based on the Model Councillor and Staff Interaction Policy 2022 developed by the
Department of Planning and Environment



murray river
council

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1. INTRODUCTION

The Councillor and Employee Interaction Policy (the Policy) provides a framework for Councillors when exercising their civic functions by specifically addressing their ability to interact with and receive advice from authorised Council employees.

This Policy provides direction on interactions between Councillors and employees to assist both parties in carrying out their day-to-day duties professionally, ethically and respectfully.

It is important to have an effective working relationship that recognises the important but differing contribution both parties bring to their complementary roles.

This policy was previously known as the Access to Council Information and Staff by Councillors Policy.

2. OBJECTIVES

The aim of the Policy is to facilitate a positive working relationship between Councillors, as the community's elected representatives, and Council employees, who are employed to administer the operations of Council.

The objectives of the Policy are:

- › establish positive, effective and professional working relationships between Councillors and Council employees defined by mutual respect and courtesy;
- › enable Councillors and Council employees to work together appropriately and effectively to support each other in their respective roles;
- › ensure that Councillors receive advice in an orderly, courteous and appropriate manner to assist them in the performance of their civic duties;
- › ensure Councillors have adequate access to information to exercise their statutory roles;
- › provide direction on, and guide Councillor interactions with, Council employees for both obtaining information and in general situations;
- › maintain transparent decision making and good governance arrangements;
- › ensure the reputation of Council is enhanced by Councillors and Council employees interacting consistently, professionally and positively in their day-to-day duties; and
- › provide a clear and consistent framework through which breaches of the Policy will be managed in accordance with the Code of Conduct (Councillors) Policy and Code of Conduct (Employees) Policy.

3. SCOPE

This Policy applies:

- › to all Councillors and Council employees;
- › to all interactions between Councillors and Council employees, whether face-to-face, online (including social media and virtual meeting platforms), by phone, text message or in writing; and
- › whenever interactions between Councillors and Council employees occur, including inside or outside of work hours, and at both Council and non-Council venues and events.

This Policy does not confer any delegated authority upon any person. All delegations to employees are made by the Chief Executive Officer (CEO).

4. LEGISLATION

- › Local Government Act 1993 (NSW)
- › Local Government (General) Regulations 2021 (NSW)
- › Government Information (Public Access) Act 2009 (NSW)
- › State Records Act 1998 (NSW)
- › Work Health and Safety Act 2011 (NSW)

POLICY STATEMENT

This Policy complements, and should be read in conjunction with, Murray River Council's Code of Conduct (Councillors) Policy and the Code of Conduct Procedure.

5. RESPONSIBILITIES

- 5.1 Several factors contribute to a good relationship between Councillors and Council employees. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.
- 5.2 Council's governing body and its management team (being employees within the organisation) must have a clear and sophisticated understanding of their different roles, and the fact that these operate within a hierarchy. The management team is accountable to the CEO, who in turn, is accountable to the Council's governing body.
- 5.3 Section 232 of the Local Government Act 1993 (the Act) states that:

232 The role of a councillor

(1) The role of a councillor is as follows—

- (a) to be an active and contributing member of the governing body,
- (b) to make considered and well informed decisions as a member of the governing body,
- (c) to participate in the development of the integrated planning and reporting framework,
- (d) to represent the collective interests of residents, ratepayers and the local community,
- (e) to facilitate communication between the local community and the governing body,
- (f) to uphold and represent accurately the policies and decisions of the governing body,
- (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

(2) A councillor is accountable to the local community for the performance of the council.

- 5.4 The management team's role is to advise the governing body, implement Council's decisions and to oversee service delivery.
- 5.5 It is beneficial if the management team recognises the complex political environments in which elected members operate and acknowledge that they work within a system that is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on the very wide range of issues that Council operations cover.
- 5.6 Council commits to the following principles to guide interactions between Councillors and Council employees.

Principle	Achieved by
Equitable & consistent	Ensuring appropriate, consistent and equitable access to information for all Councillors within established service levels.
Considerate & respectful	Councillors and Council employees working supportively together in the interests of the whole community, based on mutual respect and consideration of their respective positions.
Ethical, open & transparent	Ensuring that interactions between Councillors and employees are ethical, open, transparent, honest and display the highest standards of professional conduct.
Fit for purpose	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 for a client group of nine (9) people.
Accountable & measurable	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.

5.7 Councillors are members of the Council's governing body, which is responsible for directing and controlling the affairs of the Council in accordance with the Act.

Councillors need to accept that:

- ▶ responses to requests for information from Councillors may take time and consultation to prepare and be approved prior to responding;
- ▶ Council employees are not accountable to them individually;
- ▶ they must not direct employees except by giving appropriate direction to the CEO by way of a Council or committee resolution, or by the mayor exercising their functions under Section 226 of the Act;
- ▶ they must not, in any public or private forum, direct or influence, or attempt to direct or influence, a Council employee in the exercise of their functions;
- ▶ they must not contact a Council employee on Council-related business unless in accordance with this Policy; and
- ▶ they must not use their position to attempt to receive favourable treatment for themselves or others.

5.8 The CEO is responsible for the efficient and effective day-to-day operation of the Council and for ensuring that the lawful decisions of the Council are implemented without undue delay.

Council employees need to understand:

- ▶ they are not accountable to individual Councillors and do not take direction from them. They are accountable to the CEO, who is in turn accountable to the Council's governing body
- ▶ they should not provide advice to Councillors unless it has been approved by the CEO or a Council employee with a delegation to approve advice to Councillors
- ▶ they must carry out reasonable and lawful directions given by any person having the authority to give such directions in an efficient and effective manner
- ▶ they must ensure that participation in political activities outside the service of the Council does not interfere with the performance of their official duties
- ▶ they must provide full and timely information to Councillors sufficient to enable them to exercise their civic functions in accordance with this Policy.

6. THE COUNCILLOR REQUESTS SYSTEM

6.1 Councillors have a right to request information, provided it is relevant to Councillor's exercise of their civic functions. This right does not extend to matters about which a Councillor is merely curious.

6.2 Councillors do not have a right to request information about matters that they are prevented from participating in decision-making on because of a conflict of interest, unless the information is otherwise publicly available.

6.3 The CEO may identify a Council employee (the Councillor Support Officer/s) under this Policy for the management of requests from Councillors.

6.4 Councillors can use the Councillor Requests System to:

- a). request information or ask questions that relate to the strategic position, performance or operation of the Council;
- b). bring concerns that have been raised by members of the public to the attention of Council employees;
- c). request ICT or other support from the Council management team;
- d). request that a Council employee be present at a meeting (other than a meeting of the Council) for the purpose of providing advice to the meeting.

- 6.5 Councillors must, to the best of their knowledge, be specific about what information they are requesting and make their requests respectfully. Where a Councillor's request lacks specificity, the CEO or Council employee authorised to manage the matter is entitled to ask the Councillor to clarify their request and the reason(s) why they are seeking the information.
- 6.6 Council employees must make every reasonable effort to assist Councillors with their requests and do so in a respectful manner.
- 6.7 Subject to the nature of the request, the CEO or the Council employee authorised to manage a Councillor request will endeavour to provide a response within ten (10) working days. Where due to the nature of the request, a response cannot be provided within that timeframe, the Councillor will be advised of that fact and an estimated response time and the information will be provided as soon as practicable.
- 6.8 Requests under clause 6.4 (d) must be made five (5) working days before the meeting. The CEO or Council employees authorised to manage a Councillor request are responsible for determining:
- whether a Council employee can attend the meeting; and
 - which employee will attend the meeting.
- Council employees who attend such meetings must be appropriately senior and be subject matter experts on the issues to be discussed at the meeting.
- 6.9 Councillors are required to treat all information provided by Council employees appropriately and to observe any confidentiality requirements.
- 6.10 Employees will inform Councillors of any confidentiality requirements for information they provide so Councillors can handle the information appropriately.
- 6.11 Where a Councillor is unsure of confidentiality requirements, they should contact the CEO or the Council employee authorised to manage their request.
- 6.12 The CEO may refuse access to information requested by a Councillor if:
- the information is not necessary for the performance of the Councillor's civic functions; and/or
 - if responding to the request would, in the CEO's opinion, result in an unreasonable diversion of Council employees time and resources; and/or
 - the Councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it; and/or
 - the CEO is prevented by law from disclosing the information.
- 6.13 Where the CEO refuses to provide information requested by a Councillor they must act reasonably. The CEO must advise the Councillor in writing of their reasons for refusing access to the information requested.
- 6.14 Where a Councillor's request for information is refused by the CEO on the grounds referred to under Clause 6.12 (a) or (b), the Councillor may instead request the information through a resolution of the Council by way of a notice of motion. This clause does not apply where the CEO refuses a Councillor's request for information under clause 6.12 (c) or (d).
- 6.15 Nothing in Clauses 6.12, 6.13, and 6.14 prevents a Councillor from requesting the information in accordance with the Government Information (Public Access) Act 2009.
- 6.16 Where a Councillor persistently makes requests for information which, in the CEO's opinion, result in a significant and unreasonable diversion of Council employee time and resources the Council may, on the advice of the CEO, resolve to limit the number of requests the Councillor may make.
- 6.17 Councillor requests are state records and must be managed in accordance with the State Records Act 1998.
- 6.18 If requested, a report will be provided to Council regarding the performance and efficiency of the Councillor Requests System against established key performance indicators.

7. ACCESS TO COUNCIL EMPLOYEES

- 7.1 Councillors may directly contact Council employees that are authorised to manage a Councillor request.
- 7.2 Councillors should as far as practicable, only contact employees during normal business hours.
- 7.3 If Councillors would like to contact a Council employee, other than those authorised to manage a Councillor request, they must receive permission from the CEO.
- 7.4 If a Councillor is unsure which authorised employee can help with their enquiry, they can contact the CEO or the Director Corporate Services who will provide advice about which authorised employee to contact.
- 7.5 The CEO or a member of Council's Executive Leadership Team (ELT) may direct any employee to contact Councillors to provide specific information or clarification relating to a specific matter.
- 7.6 A Councillor or employee must not take advantage of their official position to improperly influence other Councillors or Council employees in the performance of their civic or professional duties for the purposes of securing a private benefit for themselves or for another person. Such conduct should be immediately reported to the CEO or Mayor in the first instance, or alternatively to the Office of Local Government, NSW Ombudsman, or the NSW Independent Commission Against Corruption.

8. COUNCILLOR ACCESS TO COUNCIL BUILDINGS

- 8.1 Councillors are entitled to have access to the Council Chamber, the Mayor's office (subject to availability) and public areas of Council's buildings during normal business hours for meetings. Councillors needing access to these facilities at other times must obtain approval from the CEO.
- 8.2 If the rooms outlined in Clause 8.1 are unavailable or unsuitable, Councillors may make a request to the CEO to utilise other meeting rooms. Granting of such a request is solely at the discretion of the CEO.
- 8.3 Councillors must not enter employee-only areas of Council buildings without the approval of the CEO.

9. APPROPRIATE AND INAPPROPRIATE INTERACTIONS

- 9.1 Examples of appropriate interactions between Councillors and Council employees include, but are not limited to, the following:
 - ▶ Councillors and Council employees are courteous and display a positive and professional attitude towards one another;
 - ▶ Council employees ensure that information necessary for Councillors to exercise their civic functions is made equally available to all Councillors, in accordance with this Policy and any other relevant Council policies;
 - ▶ Council employees record the advice they give to Councillors in the same way they would if it was provided to members of the public;
 - ▶ Council employees, including Council's executive team members, document Councillor requests via the Councillor requests system;
 - ▶ Council meetings and Councillor briefings are used to establish positive working relationships and help Councillors to gain an understanding of the complex issues related to their civic duties;
 - ▶ Councillors and Council employees feel supported when seeking and providing clarification about Council related business; and
 - ▶ Councillors forward requests through the Councillor Requests System and employees respond in accordance with the timeframes stipulated in this Policy.

- 9.2 Examples of inappropriate interactions between Councillors and Council employees include, but are not limited to, the following:
- a) Councillors and Council employees conducting themselves in a manner which:
 - i) is contrary to their duties under the Work Health and Safety Act 2011 (NSW) and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety; and
 - ii) constitutes harassment and/or bullying within the meaning of the Code of Conduct or is unlawfully discriminatory.
 - b) Councillors approaching Council employees and employee organisations to discuss individual or operational employee matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters;
 - c) Council employees approaching Councillors to discuss individual or operational employee matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters;
 - d) Subject to clause 6.12, Council employees refusing to give information that is available to other Councillors to a particular Councillor;
 - e) Councillors who have lodged an application with Council, discussing the matter with Council employees in employee-only areas of the Council;
 - f) Councillors being overbearing or threatening to employees;
 - g) Council employees being overbearing or threatening to Councillors;
 - h) Councillors making personal attacks on Council employees or engaging in conduct towards employees that would be contrary to the general conduct provisions in Part 3 of the Code of Conduct in public forums including social media;
 - i) Councillors directing or pressuring Council employees in the performance of their work or recommendations they should make; and
 - j) Council employees providing ad-hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- 9.3 Where a Councillor engages in conduct that, in the opinion of the CEO, puts the health, safety or welfare of Council employees at risk, the CEO may restrict the Councillor's access to employees.
- 9.4 Any concerns relating to the conduct of a Council employee under this Policy should be raised with the CEO.

10. NON-COMPLIANCE / COMPLAINTS

- 10.1 The Code of Conduct provides that Council Officials must not conduct themselves in a manner that is contrary to the Council's policies. A breach of this Policy will be a breach of the Code of Conduct.
- 10.2 Complaints about a breach of this Policy should be made to the CEO (if the complaint is about a Councillor or a Council employee), or the Mayor (if the complaint is about the CEO).
- 10.3 Clause 10.2 does not operate to prevent matters being reported to the Office of Local Government (OLG), the NSW Ombudsman, the NSW Independent Commission Against Corruption or any other external agency.

11. EVALUATION AND REVIEW

It is the responsibility of the Director Corporate Services to monitor the adequacy of this Policy and recommend appropriate changes.

This Policy will be formally reviewed every four (4) years or as needed, whichever comes first.

12. ASSOCIATED DOCUMENTS, DEFINITIONS AND ACRONYMS

External

- ▶ OLG – Model Councillor & Staff Interaction Policy – 2022

Internal

- ▶ MRC Policy - Code of Conduct (Councillors) Policy (POL-100.1)
- ▶ MRC Policy - Code of Conduct (Employees) Policy (POL-100.2)
- ▶ MRC Policy – Code of Meeting Practice Policy (POL-101)
- ▶ MRC Procedure – Code of Conduct Procedure

Definitions and Acronyms:

Term	Definition
Advice	Refers to advice or information that is business related and that may influence a Councillor when making a decision
Authorised Council employees	CEO, Directors and Managers
Chief Executive Officer (CEO)	The CEO of Council and includes their delegate or authorised representative
Councillor	A person elected or appointed to civic office as a member of the governing body of the Council who is not suspended, including the Mayor
Council Officer	An employee is defined as being one of the following: <ul style="list-style-type: none"> ▶ An employee, or ▶ A contractor or subcontractor, or ▶ An employee of a contractor or subcontractor, or ▶ An employee of a labour hire company who has been assigned to work in the person's business or undertaking, or ▶ An outworker, or ▶ An apprentice or trainee, or ▶ A student gaining work experience, or ▶ A volunteer
Council Official	Includes Councillors, employees of the Council, the management team of the Council, Council committee members, conduct reviewers and delegates of the Council
Information	May refer to: <ul style="list-style-type: none"> ▶ Files / correspondence; ▶ Public registers; ▶ Development and other applications; and / or ▶ Any other record of Council business in whatever form
OLG	Office of Local Government

13. DOCUMENT CONTROL

Version No.	Details	Dates	CM9 Reference	Resolution No.
1	Version #1 was known as the Access to Council Information and Employees by Councillors Policy.	8 Aug 2017 to 28 Nov 2023	VF/17/102641	080817
2	Revised and updated to align with the Model Policy released by OLG in 2022.	28 Nov 2023 to today	VF/17/102641	171123

Council reserves the right to review, vary or revoke this policy at any time
This Policy is scheduled for review before 2027

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