



Hawkesbury City Council

attachment 1
to
item 129

Policy for the
Provision of Information
and Interaction Between
Councillors and Staff

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



Hawkesbury City Council
Policy

DRAFT

Policy for the
Provision of Information
and Interaction between
Councillors and Staff

Adopted by Council at the
Ordinary Meeting Held on
<insert date when adopted>

Hawkesbury City Council



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1.0 INTRODUCTION

There often needs to be personal interaction between councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policy making and service delivery. This has created the need for a policy that helps Councillors and staff to understand fully their respective roles and how they should operate, in order to perform their job effectively.

Formalising procedures to specify how these rights should be exercised should be done without trying to restrict a Councillor's legal right to access staff and information. This policy is not intended to limit any statutory and common law rights Councillors have to access information. However, Councillors should avoid any perceptions of wrong doing when exercising their rights as an elected representative, particularly the appearance of trying to improperly influence staff.

The Local Government (General) Regulation, 2005, provides a procedure for Councillors to obtain access to council documents, without limiting any common law right of access.

2.0 OBJECTIVES

The objectives of this policy are to:

1. Provide a documented process on how Councillors can access Council records;
2. Ensure Councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the Council;
3. Ensure that Councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;
4. Provide staff with guidelines regarding Councillor requests.

3.0 SCOPE

This Policy applies to Councillors and staff.

4.0 DEFINITIONS

Council means the Hawkesbury City Council.

GIPA Act means The Government Information (Public Access) Act 2009.

GIPA Regulations means The Government Information (Public Access) Regulation 2009.

HRIP Act means The Health Records and Information Privacy Act 2002.

Open Access Information means records containing government information which is publicly available.

PIPA Act means The Privacy and Personal Information Protection Act 1998.

Publication Guide means a document that sets out the kinds of information that Council makes publicly available and routinely publishes on the website.



HAWKESBURY CITY COUNCIL POLICY

DRAFT Policy for the Provision of Information and Interaction between Councillors and Staff

5.0 ROLES AND RESPONSIBILITIES

ROLE	RESPONSIBILITIES
Councillors and Staff	<ul style="list-style-type: none">▪ Follow the provisions of the Policy in relation to access to information and the provision of advice.▪ Report any breaches of the Policy to the General Manager or Mayor as detailed in Council's Code of Conduct.▪ Record advice requested or obtained.
General Manager	Dealing with reported breaches of the Policy as outlined in Council's Code of Conduct
Mayor	Dealing with reported breaches of the Policy by the General Manager as outlined in Council's Code of Conduct
Manager, Corporate Services & Governance	Provide advice and guidance in relation to the Policy and undertake regular reviews of the Policy.

6.0 TRAINING REQUIRED

Training and refresher sessions will be arranged from time to time for relevant Council Staff and Councillors on the contents and implementation of this Policy.

7.0 AMENDMENTS

Council reserves the right to review, vary or revoke this Policy. Notwithstanding, the Policy will be reviewed at least within 12 months after election of a new Council. Amendments to the Policy, other than amendments due because of legislative changes, will be reported to Council.

8.0 RELATED POLICIES/CODES/GUIDELINES

The Policy should be read in conjunction with:

- Council's Code of Conduct
- Council's Code of Meeting Practice
- Council's Access to Information Policy
- Council's Access to Information Guidelines
- Council's Publication Guide
- Local Government Act 1993
- Local Government (General) Regulation 2005
- Under Careful Consideration: Key Issues for Local Government (ICAC)
- Good Conduct & Administrative Practice – Guidelines for Councils (NSW Ombudsman)
- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998



9.0 PROCEDURES

9.1 Rights as Councillors

Councillors have a right to inspect any record of the Council 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. As a general rule those records immediately seen as relevant to the exercising of a Councillor's responsibility of civic office are matters before a Council meeting, either currently or within the current term of the Council; and/or matters known by the General Manager to come before Council in the near future.

Councillors can request the General Manager, the Public Officer or a person nominated by the General Manager to provide access to a particular council record.

Council requires that Councillors return Council confidential business papers at the conclusion of the relevant Council Meeting to Council for secure disposal.

9.2 Rights as Members of the Public

Notwithstanding Clause 9.1, Councillors also 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.

In this regard the GIPA Act and Council's Access to Information Policy sets out the information accessible by members of the public and sets out whether a formal or informal application under the GIPA Act is required. Council's Publication Guide sets out the Open Access Information and other kinds of information that Council makes publicly available and/or routinely publishes on the website.

Councillors can request access to other documents of the Council either by a Notice of Motion to the Council, or a request for access to information under the GIPA Act.

Councillors who have a personal (as distinct from civic) interest in a document of Council have no less and no more rights than a member of the public regarding access to documents.

9.3 Use of Information

Reference should be made to Council's Code of Conduct which offers specific guidance to Councillors in dealing with information provided to them in the course of their civic duties.

In this regard, it is recognised that Councillors have a role both as a member of the governing body of the Council and as an elected person and importantly it recognises the difficulty for Councillors to reconcile the two areas of responsibility when dealing with Council information and documents. It notes that while it is desirable in the public interest to maintain open government, not all information available to Councillors is available to members of the public. Councillors are made privy to information of a confidential nature the disclosure of which is specifically prohibited in certain circumstances. The right of Councillors to have access to records is for the purpose of exercising the office of Councillor. It does not carry with it the right to disclose any information obtained by a Councillor to another person, unless it is already in the public domain. A Councillor has no authority to release documents on behalf of Council.

Councillors shall not cause the by-passing of GIPA Act provisions by providing to a member of the public information made available to Councillors as an elected representative.

Council's Manager Corporate Services and Governance will provide further guidance and assistance to Councillors in determining whether a document is confidential and/or not to be released.

Councillors are required, under the State Records Act, to register records (in any format) with Council they create or receive that relate to the business of Council, which are not captured by other methods. Such records are accessible subject to the provisions of GIPA, PPIP and HRIP Acts



9.4 Provision of Advice

The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or committee meeting, be directed to the General Manager or someone nominated by the General Manager.

Only senior officers and managers nominated by the General Manager can provide advice to Councillors.

For all but straightforward advice on administrative matters, it is recommended that Councillors put their requests for information or advice in writing to be answered by the General Manager or the appropriate senior officer. These written requests then form part of Council records and can be filed appropriately.

Staff are to document discussions and advice provided to Councillors including by telephone calls, emails and faxes, in accordance with record keeping requirements under the State Records Act 1998.

Councillors must not attempt to direct staff as to the performance of their work.

Councillors must not request staff to undertake work for the Councillor or any other person.