

INTERACTION BETWEEN COUNCILLORS AND STAFF POLICY

POLICY STATEMENT

In the Broken Hill City Council, as in all councils, there is a complex web of relationships between Councillors and Council employees. These contacts are necessary and essential to the smooth functioning of Council, as they allow Councillors access to information and employees.

The policy is designed to provide clear guidelines that help Councillors and employees to understand fully their respective roles and how they should operate, in order to perform their job effectively and maintain a respectful and harmonious relationship.

This policy will:

- (a) provide a clear definition of the respective roles of elected members and Council employees;
- (b) provide communication channels to ensure the speedy provision of accurate information to Councillors;
- (c) provide a documented process on how Councillors can access Council records;
- (d) 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;
- (e) provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.

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Responsible Officer	Assistant General Manager

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1. APPLICATION

This policy applies to Councillors and Council employees. It complements Council's *Code of Conduct*.

This policy covers interaction between Councillors and Council employees in formal and workplace situations. Where relevant, it should be considered in conjunction with Council's *Harassment Policy*.

The complaints section of this policy does not cover fraud or corruption complaints, which are covered under Council's *Fraud Control Policy* and *Protected Disclosures Policy*.

2. ROLES AND RESPONSIBILITIES

Chapters 9 and 11 of the *Local Government Act 1993* set out the statutory roles and duties of councillors and the General Manager. The councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with the Act. Chapter 9 includes the following provisions:

2.1 The Governing Body (s.222)

The elected representatives, called "councillors", comprise the governing body of the Council.

2.2 The Role of the Governing Body (s.223)

The role of the Governing body is to direct and control the affairs of the council in accordance with this Act.

2.3 The Role of the Mayor (s.226)

The role of the Mayor is:

- (a) to exercise, in case of necessity, the policy-making functions of the governing body of the Council between meetings of the Council (e.g. urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action);
- (b) to exercise such other functions of the Council as the Council determines (e.g. determining the appropriateness of holding a special event such as a fun run, approval of the General Manager's leave, etc.)
- (c) to preside at meetings of the Council; and
- (d) to carry out the civic and ceremonial functions of the mayoral office.

2.4 The Role of a Councillor as a Member of Council (s.232(1))

The role of a Councillor is:

- (a) to direct and control the affairs of the Council in accordance with the Act (e.g. input into preparation of Council's management plan, financial plan and organisational structure);
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- (b) to participate in the optimum allocation of the Council's resources for the benefit of the City (e.g. providing input into deciding priorities for construction and maintenance work);
- (c) to play a key role in the creation and review of Council's policies and objectives and criteria relating to the exercise of the Council's regulatory functions; and
- (d) to review the performance of Council and its delivery of services, and the management plans and revenue policies.

2.5 The Role of a Councillor as an Elected Person (s.232(2))

The role of a Councillor as an elected person is:

- (a) to represent the interests of the residents and ratepayers;
- (b) to provide leadership and guidance to the community; and
- (c) to facilitate communication between the community and Council.

2.6 The Role of the General Manager (s.335(1))

The General is generally responsible for the efficient and the effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of Council.

2.7 The Functions of the General Manager (s.335(2))

The General Manager has the following particular functions:

- (a) to manage the Council on a day-to-day basis;
- (b) to exercise such of the functions of the Council as are delegated by Council to the General Manager;
- (c) to appoint staff in accordance with an organisational structure and resources approved by Council;
- (d) to direct and dismiss staff; and
- (e) to implement Council's equal employment opportunity management plan.

3. PROTOCOLS FOR INTERACTIONS

All participants in Local Government are encouraged to facilitate a respectful and harmonious relationship between Councillors and Council employees. In particular, the following protocols must be observed:

3.1 Councillors

- (a) Councillors should bear in mind the spirit and letter of the Local Government Act 1993 as to their roles and also observe established protocols;
 - (b) Councillors are encouraged to respect the functions and responsibilities of employees and the proper workings of the Council organisation;
 - (b) Councillors must not direct employees as to the performance of their work duties;
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- (c) Requests from Councillors involving significant staff time should be made to the General Manager, or in his absence, the Assistant General Manager;
- (d) Councillors have a right to access to Council employees and to information for civic purposes under the circumstances set out in this policy;
- (e) Should a Councillor have a complaint about an employee, the complaint must be directed to the General Manager as set out in Clause 6 of this policy.

3.2 Employees

- (a) Employees must be polite at all times, treat Councillors with the respect due to their office and avoid political comment;
- (b) In all formal settings, employees will address Councillors as Councillor (last name) and the Mayor as either Mayor (last name) or Mr (Madam) Mayor;
- (c) Employees should seek the advice and approval of the General Manager, or in his absence, the Assistant General Manager, prior to responding to a direct request from a Councillor, except where the request is minor or of a day-to-day operational nature;
- (d) Employees must ensure that information provided to Councillors is factually correct, complete and relevant;
- (e) In making recommendations or providing advice to Council, employees are not required to follow any directions given by Councillors or Council as to the nature of that advice or those recommendations;
- (f) Employees must not, unless a senior manager of the Council, approach Councillors directly on staffing or political issues.

4. INTERACTIONS DURING MEETINGS

4.1 Councillors

- (a) must not make statements or imputations or disclose information concerning the personal affairs of any Councillor or Council employee without the consent of that Councillor or employee;
 - (b) may, through the Chairperson, put a question to another Councillor , and may, through the General Manager, put a question to a Council employee. However, the Councillor or Council employee to whom the question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or documents;
 - (c) must always be mindful of the relevance of questions that are put to other Councillors and Council employees during meetings or conferences of the Council;
 - (d) must permit a Council employee a reasonable time to research and provide answers to questions;
 - (e) must not interrupt, harass or unreasonably criticise a Council employee who is speaking at a conference or meeting of the Council.
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4.2 Employees

- (a) must only speak when requested. Such requests must be directed through the General Manager;
- (b) must provide an answer to questions put through the General Manager if the information is readily available to them;
- (c) may take questions on notice if information is not readily available. However, taking questions on notice should not be used as an excuse to avoid answering questions.

5. INTERACTIONS OUTSIDE MEETINGS

5.1 Councillors

Councillors, in their dealings with employees, and the Council organisation, must:

- (a) have regard to the provisions of the Local Government Act, 1993, and the roles and responsibilities set out therein and reproduced in Clause 2 of this policy;
- (b) respect the functions, responsibilities and workload of individual employees;
- (c) respect and comply with the proper and reasonable practices and procedures of the organisation;
- (d) only direct a question or request information through the General Manager or Senior Managers. The Councillor may decide the question is to be asked or the request is to be made orally or in writing, but must not unreasonably ignore a request from the staff member concerned for it to be put in writing.

5.2 Employees

Employees, in their dealings with Councillors, must:

- (a) respect the role and responsibilities of all Councillors, and their right to obtain relevant information;
- (b) on receipt of a question or request under subclause 5.1(d) of this policy, answer the Councillor's question or provide to the Councillor the information sought orally or in writing as the Councillor prefers.

If the employee is unable or unwilling to answer the Councillor's question or provide the information sought, the employee must give reasons to the Councillor and advise the General Manager;

6. INAPPROPRIATE INTERACTIONS

Council's policy is that the following interactions are inappropriate:

- (a) Councillors approaching junior members of staff for information on sensitive or controversial matters;
 - (b) Members of staff approaching Councillors directly (rather than through the General Manager) on staffing or political issues;
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- (c) Councillors approaching staff outside Council workplaces or outside work hours to discuss Council business;
- (d) Staff refusing to give information which is available to other Councillors to a particular Councillor because of the staff member's or Councillor's political views;
- (e) Councillors who have a development application (DA) before Council discussing the matter with junior staff;
- (f) Junior staff being asked to answer questions or provide documents to Councillors who are overbearing or threatening;
- (g) Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- (h) Staff providing advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community;

7. ACCESS TO DOCUMENTS

- (a) A Councillor may request the General Manager or a Senior Manager to provide them with access to a document or other record of the Council relating to a matter which is, or is to be, or has been, under consideration of the Council or a delegate of the Council or in pursuance of any other common law right of the Councillor to such access;
- (b) If a Councillor desires access to a document or record of the Council other than those referred to in Clause 7(a) above, the request for access must be made and determined under and in accordance with the *Freedom of Information Act, 1989*, or such other lawful procedure that applies to the Councillor's request for access;
- (c) The General Manager must give access to the document or record to the Councillor unless the General Manager is of the opinion that there are good reasons for referring the Councillor's request for access to the Council. The General Manager must consider whether or not the Councillor has a pecuniary interest in the matter requested;
- (d) Access to a document or record of the Council must be provided in conformity with Council's *Records Policy* and *Privacy management Plan*. In particular, Council documents must not be removed from the Administration Centre;
- (e) If, under Clause 7(b), the General Manager does not grant access to a document or record of the Council, the General Manager must, without delay, cause the Councillor's request to be determined by the Council.

8. COMPLAINTS PROCEDURES

8.1 By a Councillor Against an Employee

- (a) A complaint by a Councillor against an employee other than the General Manager must be made in writing addressed to the General Manager.
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- (b) A complaint by a Councillor other than the Mayor against the General Manager must be in writing addressed to the Mayor.
- (c) A complaint by the Mayor against the General Manager must be set out in a confidential report to the Council meeting. The General Manager may be excluded by resolution of Council from the closed section of the meeting at which the report is considered.
- (d) On receipt of a complaint under made under this Section, the General Manager, the Mayor or the Council, as the case requires, must if of the opinion that the complaint has substance and seriousness, investigate the complaint and may take or recommend such action as considered appropriate.
- (e) If the complaint concerns a Senior Manager (as defined in the Local Government Act, 1993) the Council must without delay, be informed of the complaint by the General Manager or the Mayor (as the case requires) and must be consulted with respect to the findings and recommendations arising from any investigation of the complaint before any action is taken. However, nothing in this provision authorises the Council to direct what action is to be taken in relation to the complaint.

8.2 By a Councillor Against a Councillor

- (a) A complaint by a Councillor against a Councillor other than the Mayor must be in writing addressed to the Mayor or to the General Manager;
- (b) A complaint by a Councillor against the Mayor must be in writing addressed to the General Manager;
- (c) On receipt of a complaint under this Section, the Mayor or General Manager (as the case requires) must, if of the opinion that the complaint has substance and seriousness, investigate the complaint and report the findings to Council without recommendation for the Council's decision.

8.3 By an Employee Against a Councillor

- (a) A complaint by an employee against a Councillor must be in writing addressed to the General Manager;
- (b) On receipt of a complaint under this Section, the General Manager must, if of the opinion that the complaint has substance, investigate the complaint and report the findings to the Mayor. The Mayor may take such action as considered appropriate;
- (c) If the complaint concerns the Mayor, the General Manager must, if of the opinion that the complaint has substance and seriousness, investigate the complaint and report the findings to Council without recommendation for the Council's decision.

9. NONCOMPLIANCE WITH THIS POLICY

9.1 Councillors

- (a) An alleged breach of this policy by a Councillor other than the Mayor may be reported to the Council by the Mayor;
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- (b) An alleged breach by the Mayor may be reported to the Council by the General Manager;
- (c) The Council may investigate an alleged breach of this policy in such a manner as it thinks appropriate;
- (d) If the Council finds the breach substantiated, it may, in its discretion, take such action in relation to the Councillor concerned as is permitted by law. Without limiting this provision, the Council may require the Councillor to apologise to the elected member, employee or to the organisation as a whole in such a manner as it directs.

9.2 Employees

- (a) An alleged breach of this policy by an employee may result in disciplinary procedures and/or dismissal.

10. REVIEW

This policy shall be reviewed biennially to ensure that it meets the requirements of legislation and the needs of Council.

11. ASSOCIATED COUNCIL POLICIES AND DOCUMENTS

Statement of Ethical Principles

Code of Conduct

Code of Meeting Practice

Harassment Policy
