

POLICY REGISTER

COUNCILLOR ACCESS TO INFORMATION POLICY

Policy adopted: 27th September 2018 Minute No. 214.9.18

Reviewed: 22nd July 2021 Minute No. 157.7.21

File Ref: P13-1, C14-5.1

DOCUMENT CONTROL

Issue	Prepared/Revised By and Date	Action/Amendment Description	Approved By and Date
1.0		First Edition	Council Minute No. 214.9.18 (27th September 2018)
1.1	Reviewed by Gary Woodman 25th May 2021	Updated position names and Acts and minor word amendments.	Council Minute No. 157.7.21 (22nd July 2021)

PURPOSE

The purpose of this policy is to provide a consistent set of guidelines to ensure legal and appropriate Councillor access to Council records, information and staff that may assist them in undertaking their responsibilities as elected representatives.

This policy defines appropriate interactions between Councillors, employees and contractors of Warren Shire Council. It defines potential, perceived and actual improper or undue influence or direction by Councillors of staff and ensures that risks associated with improper or undue influence are mitigated.

SCOPE

This policy applies to Councillors, all staff and contractors of Warren Shire Council.

DEFINITIONS

Councillors - all elected representatives of Warren Shire Council as defined by the Local Government Act 1993.

General Manager – Executive as appointed by Council.

Managers – refers to the Council Officers within the Manex Team (General Manager, Executive Assistant, Infrastructure Projects Manager, Divisional Manager Finance & Administration, Treasurer, Asset Manager, Divisional Manager Engineering Services, Roads Infrastructure Manager, Town Services Manager and Manager Health and Development Services).

Public Officer – this position is held by the Divisional Manager Finance & Administration.

Staff – is defined as any staff member below the level of Manager.

POLICY CONTENT ACCESS TO COUNCIL RECORDS BY COUNCILLORS

Councillors are entitled to access all council files, records or other documents in accordance with the Government Information Public Access Act 2009 (GIPA) and as identified in Councils GIPA Publication Guide, or which relate to a matter currently before the Council.

Councillors can request access to Council documents relating to their civic duties from the General Manager or relevant Manager.

Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights as any other person.

Councillors must not release personal information about a third party except in accordance with the provisions of the Privacy and Personal Information Protection Act 1998.

The Government Information Public Access Act 2009 (GIPA) also include provisions for a member of the public to a general right of access to Council documents.

The General Manager, public officer or a person identified by the General Manager shall keep a record of all requests by Councillors for access to information (other than those listed in the GIPA Act or GIPA Publication Guidelines or by a Notice of Motion at a Council Meeting).

USE OF INFORMATION BY COUNCILLORS

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

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.

Councillors must undergo to protect confidential information and only use confidential information for the purpose it was intended. Confidential information gained through your official position should not be used for the purpose of securing a private benefit for yourself or any other person.

Confidential information must not be used with the intention to cause harm or detriment to Council or any other person or body and information discussed during a confidential session of a Council meeting must not be disclosed.

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.

The Mayor shall not cause the by-passing of the general access provisions by providing to another Councillor information made available through the Mayoral role.

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

The General Manager will provide further guidance and assistance to Councillors in determining whether a document is confidential and/or not to be released.

INTERACTION BETWEEN COUNCILLORS AND STAFF

The General Manager is responsible to the Council for the performance of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff on matters not generally available to the public and which are outside the forum of Council and Committee meetings, be directed to the General Manager or to person(s) nominated by the General Manager.

Persons nominated by the General Manager include the Managers. Only the General Manager and Managers can provide advice to Councillors and any other officer nominated by the General Manager and/or Manager, from time to time.

Requests for actions, services or maintenance should be made by emailing council@warren.nsw.gov.au or by contacting a customer service area who will record the request in Council's Customer Request Management system.

When a detailed report is required, a Notice of Motion should be made to Council.

If a Councillor is concerned about any refusal to provide information, the matter should be raised with the General Manager. If the Councillor is still dissatisfied they should request the information by way of a Notice of Motion to the Council.

Councillors who have lodged a Development Application must not discuss their application with staff unless the Manager or General Manager is present. All enquiries must be directed through the General Manager or Manager. Discussions must be documented.

Councillors shall not approach members of staff directly for information or advice, other than public contact staff and then only for routine administrative matters.

The Mayor may communicate with Council staff in the course of fulfilling the Mayor's responsibilities and the General Manager is responsible for keeping the Mayor informed of all matters relevant to those responsibilities.

Staff members will not approach Councillors directly on matters other than routine administrative matters. Any other contact with Councillors must be arranged through their Manager or the General Manager.

Staff members will not lobby Councillors on policy issues.

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

Councillors must not request staff to undertake work of a personal nature for them or any other person.

COUNCILLOR ACCESS TO COUNCIL OFFICES

As elected members of the Council, Councillors are entitled to have unimpeded access to all civic areas, the Council Chamber and meeting rooms.

Councillors who are not in pursuit of their civic duties only have the same rights of access to Council buildings and premises as any other member of the public.

Councillors may not enter "staff only" areas unless with the permission of the General Manager or Manager.

The General Manager provides secretarial services through the Executive section and will instruct staff to provide secretarial support on particular matters as required.

RESPONSIBILITY AND ACCOUNTABILITY

Councillors and staff are responsible for ensuring that any breaches of this policy are reported to the General Manager.

Where the breach relates to the conduct of a Councillor, the General Manager is responsible for immediately reporting the matter to the Mayor and where the breach relates to the conduct of the Mayor, the General Manager is responsible for reporting this to Council.

Where the breach relates to the conduct of staff the General Manager is responsible for taking appropriate disciplinary action if the breach is proven.

INAPPROPRIATE INTERACTIONS

The Council has determined that the following interactions are inappropriate:

- Councillors approaching members of staff for information on sensitive or controversial matters, other than the General Manager, Managers or other staff nominated by the General Manager and as advised to Councillors;
- members of staff approaching councillors directly other than via the General Manager or their Manager on staffing or political issues;
- Councillors approaching staff outside the Council building or outside hours of work to discuss Council business;
- 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;
- Councillors who have a development application before the Council discussing the matter with staff in staff-only areas of the Council;
- Councillors entering general staff only areas with the exception of the intention to visit the office of the General Manager or Managers;
- staff being asked to answer questions or provide documents to Councillors who are overbearing or threatening;
- Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- 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.

LINKS TO POLICY

Bullying and Harassment Policy

Code of Meeting Practice Policy

Internal Reporting (Public Interest) Disclosure Policy

Model Code of Conduct Policy

National Competition Policy and Complaints Handling Procedure

Statement of Business Ethics Policy

LINKS TO FORMS

Government Information (Public Access) Act 2009 Access Application

REFERENCES

Under Careful Consideration: Key Issues for Local Government (ICAC)

Good Conduct & Administrative Practice-Guidelines for Councils (NSW Ombudsman)

RELEVANT LEGISLATION

Local Government Act 1993

Local Government (General) Regulations 2005

Government Information (Public Access) Act 2009

Public Interest Disclosures Act 1994

Independent Commission Against Corruption Act 1988

Privacy and Personal Information Protection Act 1998