

CEO Protocol for Councillor and staff interaction

MPP-053

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1 Purpose

This protocol provides guidance and support for Councillors and council staff in the performance of their respective roles as established by the Local Government Act 2020 (the Act).

The good governance and effective service delivery by the Surf Coast Shire Council are dependent on how well the relationship between the elected members (Councillors) and the organisation (Council staff) works. This requires an understanding, acceptance and adherence to their respective roles and responsibilities.

This protocol is pursuant to section 46(3)(c) of the Act that states that the Chief Executive Officer (CEO) is responsible for

“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”

This protocol aims to complement the Councillor Code of Conduct and Staff Code of Conduct, which will both be reviewed in 2021 as Council progressively implements the Act.

2 Objectives

The CEO has developed this protocol with the following objectives:

1. To support Councillors in fulfilling the role of a Councillor pursuant to the Act by:
 - a. Ensuring Councillors have access to advice, information and documentation to help them to fulfil their role in an effective manner;
 - b. Incorporating good governance principles to information-sharing, including transparency, accessibility and accountability;
 - c. Supporting Councillors to conduct themselves with Integrity as outlined in Part 6 of the Act, and in particular:
 - i. Section 123, relating to misuse of position;
 - ii. Section 124, relating to directing a member of staff; and
 - iii. Section 125, relating to confidential information;
2. To support customers to receive efficient and timely processing of requests for information, service requests and operational matters that they may choose to submit via Councillors;
3. To support the CEO and staff in fulfilling their roles by:
 - a. Supporting staff to avoid disclosures of information that may breach privacy obligations of Council;
 - b. Providing a safe and healthy work environment free from repetitive or unreasonable communication or examination by Councillors;
 - c. Enabling staff in the discharge of obligations and responsibilities pursuant to their delegated authority; and
 - d. Supporting Authorised Officers to fulfil their roles in accordance with relevant legislation.

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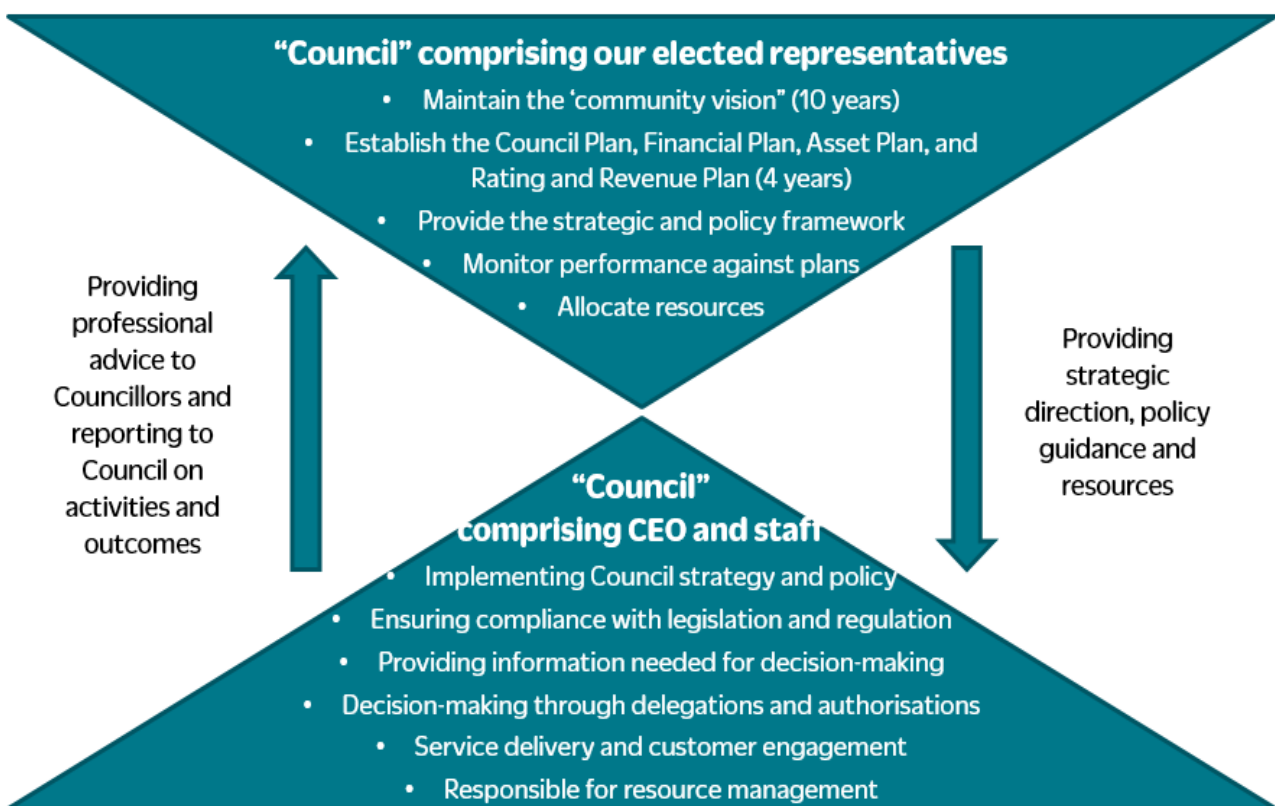
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3 Context

Surf Coast Shire Council exists to help the community and environment to thrive. The Council consists of the:

- Nine democratically elected Councillors (the electoral arm); and
- Chief Executive Officer (CEO) and the organisation/staff (the operational arm).

Councillors, the CEO and Council have different roles and responsibilities, but work together for the benefit of the community and environment. The figure below provides an overview of how the parts of Council work together, noting that this is a high level view and not an exhaustive list.



Councillors

Councillors are the democratically elected representatives of the Community. When working as a collective, Councillors have the responsibility to fulfil the role of the Council as defined in the Local Government Act 2020, and it is often the combination of diverse skills, experiences and attributes, combined with a shared vision or focus, that make the most effective team of elected representatives.

Council staff

The administrative or operational arm of Council comprises the Chief Executive Officer and council staff who are responsible for implementing Council policy and decisions, service delivery and providing professional advice to Councillors to enable decision-making by Council.

Clear lines of authority are critical for staff and the community. This does not prohibit Councillors from expressing their views about administration matters or implementation of policy or Council decisions. This can be done through the CEO.

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Requests by community and customers

Councillors are important representatives for their constituents, community and customers and staff will support Councillors to navigate how to respond to and support these parties.

Community members are generally not familiar, or understanding of, the role of Councillors as defined in the Act. Community members or groups may ask Councillors to take a role on their behalf that may compromise Councillors with respect to complying with the Act. This is particularly possible if the matter is operational in nature (eg. administration of a specific service request, review of decision-making under delegation, the investigation or decision or an Authorised Officer, intervening in a legal or statutory process). This protocol:

- Enables staff to respond to customers issues or concerns raised via Councillors, without creating the perception of preferential treatment; and
- Provide Councillors with confidence that the issue raised will be acknowledged, and will be managed or processed in accordance with the appropriate legislation, regulation or Council policies.

4 General protocols

The majority of interactions between Councillors and staff can be summarised as follows:

1. Requests for service where the Councillor is the customer (eg. the councillor needs a new bin);
 - a. Requests can be lodged online, by email or via phone, as per any customer request;
 - b. Requests can also be lodged via the Councillor Portal, as 'private and confidential' (these requests will not be visible to other councillors);
2. Requests for information as a Councillor (may be a specific or general Council matter);
 - a. The request should be lodged via the Councillor Portal for shared understanding;
 - b. Information will be provided in accordance with the principles and flowchart as per attachment 1;
3. Request for information on behalf of a customer (may include a request for information or action);
 - a. Councillors are encouraged to assist customers to contact Council directly in the first instance;
 - b. If the customer is unable to contact the Council, the Councillor may lodge the request on their behalf, via the Councillor Portal, and Council staff can then respond to the customer.
 - c. If the Councillor withholds the customers details, the Councillor will be responsible for the advising the customer:
 - i. Officers will respond to the Councillor as if they are a general member of the public.
 - ii. Councillors are expected to inform the customer that Council will have no record of the customer in relation to the request or response and so cannot provide any further or follow-up advice
 - iii. That the Council has no record of them in relation to the request or response and will be not able to assist with further clarification or follow-up

5 Specific protocols

Members of the community may request service, support or information about a range of issues. Councillors and Council officers must meet their respective obligations to maintain probity, including adherence to privacy principles, in responding to such requests at all times.

The following protocols apply equally to Councillors and staff. If the protocols do not specifically address a situation faced by a Councillor or staff member, then advice should be sought from the CEO or relevant General Manager.

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5.1 Who to contact

Interactions between Councillors and staff should occur with the CEO or General Managers (who together form the Executive Management Team) and Department Managers.

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

- Executive Assistant to Mayor
- Executive Assistant to CEO
- Administration Officer CEO
- Governance team
- Communications team

The organisation chart and contact details are available on the Councillor Portal.

The following officers may contact Councillors directly at the request of members of the Executive Management Team or to provide acknowledgement or reference to service requests for the information of Councillors:

- Executive Assistants to General Managers
- Administration Officers

Staff other than the CEO, General Managers, Department Managers or those listed above are to advise their Manager if a Councillor has contacted them without the prior approval of their relevant Manager or General Manager. Correspondingly, staff should not seek to make direct contact with Councillors without their Manager's consent.

5.2 How to contact staff

The Councillor Portal has been designed to be the primary channel for written requests from Councillors to staff. Councillors are expected to use the Portal wherever possible.

If requests come through other channels, staff will redirect the request to the Portal and respond via the Portal.

5.3 Requests for service as a private customers or resident

Councillors are also residents and customers of Council and can contact Council for personal service as per standard channels that include online, live chat, phone and email.

In these instances, Councillors will be provided their unique CRM number for their request as per normal practice, however they will still liaise with staff as per clause 5.1 of this protocol.

Requests can also be lodged via the Councillor Portal, as 'private and confidential'

- a. The request will not be made visible on the portal;
- b. The request will be transferred to the Customer Request Management (CRM) system;
- c. The Councillor will be provided with a CRM number; and
- d. Service response will be as per standard services levels and protocols.

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5.4 Requests for information as a Councillor

The request should be lodged via the Councillor Portal for effective and efficient management and for supporting a shared understanding.

It is common for requests from one Councillor to be of broad interest to Council or Councillors. Requests for information may also result from, or be expected to be brought, to a Councillor Briefing or Council Meeting

1. It is appropriate to share information with all Councillors to support informed discussion and decision-making through all Councillors having access to the same information, particularly when it is in Council's interest such as when a decision of the Council may be needed
2. If the Councillor or staff member initiates the correspondence by email rather than the portal, they should generally include as a minimum all Councillors and the Executive Management Team as recipients to the communication and state why the matter may be of broad interest
3. If a communication, including an email, does not include all Councillors as recipients, the staff member will provide the response to all Councillors inclusive of the complete email chain including a statement about why the matter may be of broad interest
4. If a Councillor has a concern about other Councillors, staff or any other person being made aware of their request or the subsequent response, or the preceding email or its content, then the Councillor should not send the email or request that information

Information will be provided in accordance with the principles and flowchart as per attachment 1

5.5 Request for information on behalf of a customer

Customers should not seek preferential treatment by lodging service requests via Councillors. Therefore all service requests or operational matters lodged by, or via, a Councillor will be processed as per standard timeframes as if they were lodged directly by the customer.

Recommended Protocol to support efficient and timely response to Customer and Community issues

- A direct interaction between the organisation and customers or community assists to resolve or respond to issues in an accurate, clear and timely manner by connecting customers to those responsible for the day-to-day operations of Council
- Councillors will in the first instance encourage community members and customers to contact Council directly (via phone or email) to register service requests or operational matters (e.g. reporting a pothole, raising a local issue or discussing a localised consultation activity)
- Direct engagement between the customers and organisation will reduce delays and enable the most appropriate support or advice to be provided directly to the customer and enable accurate corporate records to be maintained

Alternative Protocol for Customers and Community

Where the community member or customer is unwilling or unable to contact Council directly, a Councillor may:

- Forward the request to the organisation via the Portal so that it can be lodged and a service or response provided to the customer; or
- Not forward the request noting that it will not be addressed in which instance the Councillor should advise the customer.

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If the Councillor withholds the customers details, the Councillor will be responsible for the advising the customer:

- a. Officers will respond to the Councillor as if they are a general member of the public.
- b. Councillors are expected to inform the customer that Council will have no record of the customer in relation to the request or response and so cannot provide any further or follow-up advice
- c. That the Council has no record of them in relation to the request or response and will be not able to assist with further clarification or follow-up
- d. Council not responsible for how the information is used or any actions of decisions that the customer might make on the basis of the information provided via the Councillor.

5.6 Verbal requests for information

Verbal requests for information or service may include of face-to-face interactions, phonecalls, meetings or events.

Where Councillors and staff discuss matters of a personal nature

- a. The staff member should make a brief note capturing the important elements of the discussion and create a corporate record with appropriate security levels relevant to the nature of the privacy considerations
- b. Circulation or sharing of the information will only occur through consultation with the CEO and/or relevant General Manager

Where the matter is of broad interest to Council or Councillors, or may result from or be expected to brought to a Councillor Briefing or Council Meeting:

- a. It is appropriate to share information with all Councillors to support informed discussion and decision-making
- b. The staff member will advise the relevant General Manager or CEO of the discussion between Councillor and staff member
- c. The staff member will provide an overview of the discussion to all Councillors either through:
 - i. The Councillor Portal;
 - ii. Inclusion in a Communication Report to be emailed or included in a Councillor Briefing agenda; or
 - iii. Inclusion of relevant advice provided to a Councillor in a Council Report, if the matter is progressing directly to a Council meeting.

5.7 Complaints by community and customers

Council has adopted a Complaints Policy, with complaints being processed in accordance with the Complaints Handling – Management Policy and Procedure. This provides an open and transparent complaint handling system which ensures all complaints are handled fairly and objectively.

Councillors must not seek to influence officers as they address complaints through this process.

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5.8 Enforcement

While a Councillor may convey a request for enforcement or raise a matter under investigation.....Involvement by elected representatives in any stages of matters of investigation and enforcement must not occur.

The Council makes delegations and authorisations to various staff who must objectively and professionally investigate and enforce various legislation including, but not limited to, *Domestic Animals Act 1994*, *Environment Protection Act 1970*, *Food Act 2010*, *Health Act 1958*, *Planning and Environment Act 1987*, *Road Safety Act 1986* and Council's Local Laws.

Delegated and authorised officers must be able to perform investigation, determination of response, management of infringements and prosecutions in a manner that is free of improper direction or improper influence.

Consideration of appeals against the infringement notices will be reviewed in accordance with the relevant guidelines published by the Attorney-General and the internal appeals procedure. Councillors must therefore not involve themselves in matters of investigation and enforcement in a manner that may give rise to a conduct breach.

In accordance with section 124 of the Act, Councillors must not direct or seek to direct a member of Council staff in the exercise of a delegated power, or the performance of a delegated duty or function of the Council. Councillors can still assist members of the community as follows:

- Where members of the community seek support in relation to a decision made by an Authorised Officer, councillors should refer the community to the relevant staff to ensure that customer is supported to understand their appeal rights and processes.
- Where members of the community seek support in relation to a the manner in which a staff member has behaved or conducted themselves in relation to the community member, Councillors should refer the person to Council's formal Complaints policy and process.

The *Compliance and Enforcement Protocol* that guides staff undertaking this work is available on the Councillor Portal.

5.9 Planning and Environment Act roles

The Council has significant responsibilities under the *Planning and Environment Act 1987*. It is important that Councillors are supported to participate through their statutory roles and that the decision making of the Council is not tarnished by perceptions of bias, predetermination, inappropriate direction or inappropriate influence.

Councillors should seek to understand specific issues or seek relevant information at a briefing session where possible to enable all Councillors to have a shared understanding of matters that might come before them at a future meeting.

5.10 Extended dialogue and repetitive communication

Where extended dialogue or repetitive communication is occurring between Councillors and staff, these matters will be brought to the next practical Councillor Briefing session where an efficient and shared discussion can occur.

5.11 Requests for access to documents or copies of documents

Staff will provide Councillors with the information necessary to effectively undertake their role. This is different to Councillors seeking information as a matter of interest, in which case they have the same rights as any member of the public.

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Where a decision is to be made by Council through resolution, it is appropriate for Councillors to have relevant information to assist their consideration and decision-making. Officers will generally provide this through a report or attachment to a report in the Council meeting agenda.

Councillors should not request access to documents or copies of documents that relate to operational matters or decisions made by officers under their delegated authorities or as Authorised Officers.

The workflow at Attachment 1 outlines the principles for providing information to Councillors.

5.12 Distribution Principles

Councillors are responsible for understanding what information is considered to be confidential information under the Act.

Sometimes Councillors designate a communication as confidential, private or not for distribution. A staff member receiving this type of communication will consult with the CEO regarding appropriateness of distribution to other recipients.

The CEO should not withhold a purportedly confidential communication received directly or indirectly from a Councillor where it is in the Council's interests that other Councillors or staff should be aware of some or all of the communication

5.13 Email Accounts

Private email accounts are not appropriate for Council-related interactions and should not be used by Councillors or staff for Council-related matters

Where this is identified, staff will respond to the communication via the Portal or a Council-issued email address.

5.14 Avoid Seeking to Influence Officers in the preparation of reports

Officers prepare reports for consideration by Councillors at Council meetings. The report and its recommendation are the responsibility of the authoring officer and reflect their professional knowledge and assessment of the relevant issues. Councillors should not seek to influence the work of officers in the preparation of these reports.

A particular area to which this principle applies is statutory planning, in relation to planning applications that are to be determined by Council resolution. Councillors must not seek to influence officers in the preparation of the Council report or its recommendation.

To support the above principles, interactions between Councillors and staff with regard to information or clarification of Council reports will occur via discussion at Councillor briefing sessions or via the Portal where information can be shared by all Councillors.

Repetition and Urgency

Regarding the need to avoid seeking to influence officers, this includes repeated asking of questions and overly stressing the perception that a matter has urgency.

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Attachment 1

