

Councillor Media Policy	Policy No:	SCS-041
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Responsible Officer: Manager Governance and Risk	Approved By:	Council
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1. Purpose

The purpose of this policy is to provide the Surf Coast Shire Council and individual Councillors with guidance as to what comprises good governance concerning:

- all interactions with **Media**;
- all interactions with **Social Media**;

related to Council decisions and the exercise of all functions concerning their roles as Council and Councillors.

This policy sets out Guidelines to assist Councillors to exercise respectful behaviours in relation to Council decisions, the different views of other Councillors and the work of Council staff.

It is not the intent of this policy to curtail any individual human right to Freedom of Expression, but to acknowledge that all human rights come with responsibilities and must be exercised in a way that respects the human rights of others (*Charter of Human Rights and Responsibilities Act 2006 (Charter)* Preamble) and that Councillors must comply with legal obligations in the *Local Government Act 1989 (LG Act)* and the Councillor Code of Conduct.

Relevant human rights of others include the right to Privacy and Reputation as set out in the Charter.

See the **Appendix** for relevant Definitions and Excerpts.

2. Scope

This policy applies to all Councillors of the Surf Coast Shire Council whether carrying out functions as spokesperson for or on behalf of Council or when interacting with Media or Social Media in their role as Councillor.

Interactions with Media may include comments made at Public Meetings, including Council Meetings, where Media representatives are present.

This policy also applies to Councillors in relation to interactions with Media and Social Media in their personal capacity where it might be reasonably assumed by a reader or listener that:

- their opinions are related to their role as Councillors rather than being the expression of a personal view;
- that they are purporting to express views on behalf of Council or other Councillors;
- the content or subject matter of the Media or Social Media interaction relates to a matter currently before Council;

- the content or subject matter of the Media or Social Media interaction might reasonably be interpreted as causing a detriment by bringing Council, another Councillor, Federal or State Government or any other Local Government into disrepute in contravention of the LG Act and Code of Conduct.

The policy does not seek to curtail the ability of any Councillor to seek the views of the Local Community via communication channels such as Social Media.

This policy is in addition to the responsibilities of Councillors under the Councillor Code of Conduct.

3. POLICY

3.1 Principles and Legal Obligations Underpinning this Guideline

The Principles of Good Governance require all Councillors to respect the Decisions of Council, irrespective of whether they personally agree with those Decisions.

This does not restrict Councillors from expressing their own views to Media and on Social Media provided they do not seek to publicly undermine Council decisions or other Councillors.

The Good Governance Guide states:

When a council decision contradicts a promise made by a Councillor during an election, they need to be able to indicate to their constituents that they did not agree with the decision. If this needs to be done, it should be done in such a way that it doesn't undermine the Council decision. (see Appendix)

3.2 Local Government Act Obligations

Section 65 of the LG Act requires, among other tasks, that in performing their role Councillors must:

- Observe the principles of good governance and act with integrity (see also section 76B); and
- Provide civic leadership; and
- Facilitate effective communication between the Council and the community.

Section 76BA sets out general Councillor conduct principles including requiring that Councillors:

- Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- Act lawfully and in accordance with the trust placed in them as an elected representative;
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Section 76D prohibits behaviours by Councillors that are a misuse of their position including:

- Causing or attempting to cause detriment to the Council or another person
- Making improper use of information acquired as a result of their position
- Disclosing confidential information

- Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council Staff
- Exercising or performing, or purporting to exercise or perform, a power, duty or function that they are not authorised to perform.

3.3 **Guidelines**

All Councillors are encouraged to respect and comply with the following Guidelines:

3.3.1 **Confidential Information**

Confidential information provided to Council and Councillors must never form the basis of any comment to Media or on Social Media.

Private and personal information relating to any Councillor or Council Staff member must never form the basis of any comment to Media or on Social Media.

3.3.2 **Respecting Council Decisions and Roles**

Council Decisions and the systems and processes set out by the LG Act should not be undermined.

Any Councillor may make comments to Media or on Social Media regarding their own view point concerning a Council Decision but they must respect that Decision. A Councillor's comments must not cause any detriment to Council or any other person or undermine public confidence in Council or the office of Councillor.

No Councillor is to make any comment to Media or Social Media purporting to convey the views of any other Councillor or the views of Council (other than to state the Content of a Decision that has been made) unless they have been delegated the role of Spokesperson by the Mayor.

If a decision is still under consideration, all requests for comment should be referred to Council's Communications Team.

3.3.3 **Respecting Other Councillors and Council Staff**

The health, safety, wellbeing, privacy and reputation of any other Councillor or Council staff member must not be compromised by any offensive, derogatory, humiliating, intimidating or undermining comment which identifies them by name or inference in any Media or Social Media interaction.

Councillors should not infer the reasons for another Councillor's viewpoint in relation to their voting on decisions.

Councillors should not criticise other Councillors or the work done by other Councillors as this may undermine public confidence in the role of Councillor.

Councillors must not seek to improperly influence decisions of a member of Council staff through any Media or Social Media interaction or campaign.

3.3.4 **No Surprises**

It is respectful to other Councillors and Council Staff (via the CEO) that if Councillors become aware of any critical or potentially critical or misleading comment that might be made in Media or Social Media concerning that Councillor or Council Staff member in relation to any comment, post or response by a Councillor or journalist or member of the public, then, as soon as possible after becoming aware of that material the Councillor:

- advise all other Councillors or the CEO by email or text of that comment or post or article so that no person is taken by surprise by the Media or Social Media material; and
- advise Council's Communications Team of the material.

3.3.5 **Leadership and Integrity**

In all interactions with Media and Social Media, Councillors are to demonstrate leadership and integrity and to ensure that all statements made by them are honest and are not likely to mislead or deceive another person.

No Councillor should take personal credit for any Council Decision as this is disrespectful of the contributions of other Councillors.

No Media or Social Media interaction should undermine the peace, order and good government of Council or denigrate any Local, State or Federal Government.

3.3.6 **Effective Communication between Community and Council**

Councillors are encouraged to use the broad reach of Media and Social Media to engage constructively and effectively with the Local Community including encouraging public engagement and discussion and active participation in civic life.

In using Media and Social Media to engage with the community, Councillors should consider:

- Not all community members access or express views by the use of Media or Social Media;
- Some community members or groups may have a disproportionately strong vocal reach in Media and Social Media and do not necessarily reflect majority opinions;
- There are well recognised deficits in Social Media engagement resulting from the ability of people to post abusive and offensive posts anonymously and by reason of the lack of any accountability for false, defamatory and offensive material being posted.

3.3.7 **Matters Particular to Social Media**

Councillors are encouraged to take into account the following issues that frequently arise in relation to the use of Social Media in the community and which can cause offense and distress to others:

- Be careful in relation to the use of CAPS and **Bold** and *Italicized* or other written devices to emphasise comments in a post as these may be interpreted by others as offensive or intimidating by being seen as shouting or aggressive or angry etc.
- Be wary of using any language in a sarcastic or flippant manner or by the use of humorous comments about matters that may be serious or sad to others (or humour at another person's expense) or by using language in a way that might be interpreted as a "back handed slap"
- Care should be taken in "liking" or otherwise responding to posts and in sharing posts as these responses can be interpreted by others in ways that may not be intended
- Where inappropriate, abusive or offensive posts are made to any Social Media site moderated, managed or operated by a Councillor, that Councillor should moderate that site and remove, block or otherwise make it clear that such posts are not to be made. Council's Communications Team can assist any Councillor with appropriate responses to Social Media trolling and other offensive posts.
- Councillors should ensure that they have appropriate privacy settings on all Social Media sites moderated, managed or operated by them, bearing in mind that all Social Media posts are public to some degree
- Councillors should at all times model respectful behaviours, be careful not to act to the detriment of Council and not express any views or opinions which would negatively impact on their ability to carry out their role as Councillor with impartiality and integrity
- In responding on Social Media sites to requests for information, Councillors should endeavour to use neutral questions and statements and to refer Local Community members to the appropriate Council service
- In posting photographs, Councillors should ensure they have the permission of any other person in the photograph to post that photograph, not to act disrespectfully of others by posting obviously unflattering photographs of others and not unreasonably cropping or otherwise amending photographs.

3.3.8 **Matters Particular to Media**

- Councillors might consider taking time to respond to Media requests for comment or declining to comment, to ensure they have considered all implications of their response before it is published or broadcast.
- Councillors might also wish to request journalists to confirm with them first what they are going to publish to allow Councillors to correct any errors or misstatements before they are published.
- Letters written to any other party by any Councillor on Council letterhead should be approved by the Mayor before being sent as such material may reasonably be assumed by any recipient to be official correspondence from Council.

- If asked to comment on any operational matter, Councillors should refer the journalist to Council's Communications Team.

4. Consequences of Breach of Guidelines

By adopting this Policy Councillors agree to follow these guidelines.

Councillors are reminded that the obligations set out in the LG Act and Councillor Code of Conduct are mandatory.

Any action by a Councillor in relation to their interaction with Media and Social Media which breaches obligations under the Act or Code, may result in further action taken pursuant to the Act and Code.

5. Related Legislation

Victorian Local Government Act 1989

Victorian Privacy and Data Protection Act 2014

Charter of Human Rights and Responsibilities Act 2006

Victorian and Federal anti-discrimination legislation

6. Related Policies and other Documents

As well as directly related statutory obligations Council has responsibilities under other documents such as:

- Councillor Equal Opportunity and Workplace Behaviours Policy
- Records Management Policy – IS 010
- Other Council policies and procedures
- Voluntary principles, best practices, codes of conduct, charters and guidelines
- Good Governance Guide

Appendix – Definitions and Excerpts

7.	Media	<p>The means of mass communication, typically involving broadcasting and/or publishing that reach or influence people widely.</p> <p>Media includes Local, State, National and International:</p> <ul style="list-style-type: none"> • Radio; • Television; • Newspapers; • Magazines; and • the Internet <p>Interactions with Media include being interviewed by a journalist, being aware that journalists are present in any public meeting or in the Council Chamber, approaching Media journalists to make a comment or writing opinion pieces or letters to the editor, sending personal views or letters of support to any other party on Council letterhead or any other published material.</p>
8.	Social Media	<p>Computer-mediated technologies that facilitate the creation and sharing of information, ideas, career interests and other forms of expression via virtual communities and networks. A category of online media where people are talking, participating, sharing, networking, and bookmarking online.</p> <p>Social media includes:</p> <ul style="list-style-type: none"> • Sites where comments and photos are posted such as Facebook, Twitter, Instagram etc • Media sites hosting articles with comments • Blogging sites • Forums and discussion groups • Wikis • Business networking sites such as LinkedIn etc • Instant messaging sites such as Snapchat, MSN Messenger etc • Email • Podcasting sites • Online gaming platforms • Online dating sites <p>Interactions with Social Media include any posts to any Social Media site, engaging with any other person's or organisation's Social Media site, liking or otherwise responding or sharing any other post on a Social Media site, publishing material to any other person or group of persons via email including forwarding material and replying or replying all to any email or group email.</p>

9.	Like (including other possible reactions)	The reactions which may be a Social Media site features allowing users to acknowledge comments, pictures, wall posts, statuses or fan pages. A like or other reaction can help determine how interested you are in a topic, and which content should appear towards the top of your news feed on a site.
10.	Posting	Creating your own or sharing images, videos, text etc. to your followers or members of online communities
11.	Sharing	Posting content that is not your own with your own followers in order for a wider audience to view that content.
12.	Charter section 13 Privacy and Reputation	<p>13 Privacy and reputation</p> <p>A person has the right—</p> <p>(a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and</p> <p>(b) not to have his or her reputation unlawfully attacked.</p>
13.	Charter section 15 Freedom of Expression	<p>15 Freedom of expression</p> <p>(1) Every person has the right to hold an opinion without interference.</p> <p>(2) Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether—</p> <p>(a) orally; or</p> <p>(b) in writing; or</p> <p>(c) in print; or</p> <p>(d) by way of art; or</p> <p>(e) in another medium chosen by him or her.</p> <p>(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary—</p> <p>(a) to respect the rights and reputation of other persons; or</p> <p>(b) for the protection of national security, public order, public health or public morality.</p>

14.	Misuse of Position under the LG Act	<p>76D Misuse of position</p> <p>(1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—</p> <p>(a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or</p> <p>(b) to cause, or attempt to cause, detriment to the Council or another person.</p> <p>Penalty: 600 penalty units or imprisonment for 5 years or both.</p> <p>(2) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include—</p> <p>(a) making improper use of information acquired as a result of the position he or she held or holds; or</p> <p>(b) disclosing information that is confidential information within the meaning of section 77(2); or</p> <p>(c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or</p> <p>(d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or</p> <p>(e) using public funds or resources in a manner that is improper or unauthorised; or</p> <p>(f) failing to disclose a conflict of interest as required under this Division.</p>
15.	Excerpt from the Good Governance Guide page 52	<p>Talking publicly about council decisions</p> <p>A unique feature of local government is that all decisions are taken in the name of the whole council. Councillors are bound by the council decision, regardless of whether they were in favour of it or not. This is how councillors' accountability to the council works.</p> <p>The councillors' role means that they are also accountable to their constituents who may have voted for them on the basis of a pledge to achieve a particular outcome. When a council decision contradicts a promise made by a councillor during an election, they need to be able to indicate to their constituents that they did not agree with the decision.</p> <p>If this needs to be done, it should be done in such a way that it doesn't undermine the council decision. The councillor should focus on the content of the decision</p>

		<p>rather than resorting to inflammatory statements which can be both destructive and undermining. For example, stating that 'the council has done X, even though I support Y' is preferable to saying 'the council has done X because they don't care about the community'.</p>
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