



Councillor Staff Interaction Policy

Executive Summary

Baw Baw Shire has a history of collegiate Councillor groups and strong working relationships between Councillors and Staff. We wish to honour and continue this proud tradition, which has helped shape the organisation we have today. These strong relationships are imperative for navigating the challenging decisions that face us within the modern Local Government context and our growing municipality. Positive relationships are critical for Councillors and staff in achieving our common goal of delivering the best outcomes for the Baw Baw Shire community.

This policy meets the Act's overarching governance principles of achieving the best outcomes for the municipal community and pursuing innovation and continuous improvement, outlined in section 9.

Definitions

Council means elected Council.

Staff means those employees led by the Council CEO, including Executive, all permanent staff, part-time, casual and those working on short-term contracts.

Legislative context

This policy relates to the *Local Government Act 2020 (the Act)* and results directly from amendments incorporated when the Act received Royal Assent on 24 March 2020.

Specifically:

46 Functions of the Chief Executive Officer

- 1) *A Chief Executive Officer is responsible for—*
 - a) *supporting the Mayor and the Councillors in the performance of their roles; and*
 - b) *ensuring the effective and efficient management of the day to day operations of the Council.*
- 2) *Without limiting the generality of subsection (1)(a), this responsibility includes the following*
 - a) *ensuring that the decisions of the Council are implemented without undue delay;*
 - b) *ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;*
 - c) *supporting the Mayor in the performance of the Mayor's role as Mayor;*
 - d) *setting the agenda for Council meetings after consulting the Mayor;*
 - e) *when requested by the Mayor, reporting to the Council in respect of the*



implementation of a Council decision;

f) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Workplace Injury Rehabilitation and Compensation Act 2013.

3) Without limiting the generality of subsection (1)(b), this responsibility includes the following—

a) establishing and maintaining an organisational structure for the Council;

b) being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;

c) 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;

d) performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.

28 Role of a Councillor

3) The role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer.

123 Misuse of Position

1) A person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position—

a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or

b) to cause, or attempt to cause, detriment to the Council or another person.

2) An offence against subsection (1) is an indictable offence.

3) 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 delegated committee include—

a) making improper use of information acquired as a result of the position the person held or holds; or

b) disclosing information that is confidential information; or

c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or

d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform.

The following Acts also have relevance to this policy;

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- *Charter of Human Rights and Responsibilities Act 2006*
- *Freedom of Information Act 1982*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Equal Opportunity Act 2010.*

Related policies and documents

- Baw Baw Shire Councillor Code of Conduct
- Baw Baw Shire Staff Code of Conduct
- Local Government Victoria Good Governance Guide
- IBAC – Report Findings in Local Government Integrity Frameworks
- Ombudsman’s Report – Councils and Complaints

Purpose

Good governance is dependent on the relationship between the Councillors and the organisation. Mutual respect and understanding between Councillors and staff is essential and a foundation of our Shire.

Council is committed to ensuring that all interactions between Councillors and staff are positive and constructive. This policy complements the Councillor Code of Conduct and the Staff Code of Conduct.

This policy:

1. Seeks to provide Councillors, staff and other persons with clarity surrounding their respective roles, responsibilities, and obligations in dealings with each other;
2. Seeks to support efficient and timely processing of requests for information, service requests and operational matters that may be submitted via Councillors;
3. Seeks to ensure that Council’s resources are used efficiently and effectively;
4. Supports Councillors in fulfilling the role of a Councillor pursuant to the Act. Section 28 (1A) of the Act specifies the role of the Councillor as including “to participate in the decision- making of the Council”.
5. Supports Councillors to comply with Section 123 (3C) of the Act, specifically in assisting Councillors to avoid improper direction or influence of members of staff;
6. Supports Councillors and staff to avoid disclosures of information that may breach privacy obligations of Council;
7. Supports Councillors to avoid conduct, such as repeated or unreasonable communications, that could create a risk to the health and safety of a member of Council staff; and
8. Supports staff in the discharge of obligations and responsibilities pursuant to their

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delegated authority.

9. Supports the CEO in the discharge of obligations and responsibilities pursuant to the Act. Section 46 of the Act stipulates that the 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.

The Protocol complements the Councillor and Staff Codes of Conduct and aims to strengthen the working relationship between Councillors and staff in the performance of their duties. Through signing the Code of Conduct, Councillors have committed to the following:

Councillors appoint, manage and support the Chief Executive Officer of the organisation to deliver the strategic direction of the Council. Councillors should not be involved in the operational decisions of the organisation or its services and, in adherence to the Act will not misuse their position to direct staff.

Scope

This policy relates to all elected Councillors while holding the office of Councillor and to all staff while remaining employees of Baw Baw Shire. This policy is also applicable to volunteers in delivering Council services. The CEO must abide by, and ensure adherence to this policy.

The policy covers interaction through all forms of communication, including meetings (both planned and unplanned), personal visits, telephone calls, emails and interactions through digital and social media platforms between Councillors and Council staff.

Councillors may contact the CEO on any matter as required.

Policy Objectives

The objectives of the Policy are to:

- Ensure Councillors have access to advice, information and documentation to help them to fulfil their role in an effective manner;
- Provide guidance to Councillors and staff to assist the preparation of communication;
- Incorporate good governance principles to information-sharing, including transparency, accessibility and accountability;
- Support effective working relationships and building of trust amongst Councillors and between Councillors and Council staff; and
- Support compliance with relevant legislation, including the Local Government Act 2020, Occupational Health and Safety Act 2004, Privacy and Data Protection Act 2014 and the Equal Opportunity Act 2010.

Policy detail

Interactions

Councillors will generally interact with staff for the following reasons:

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1. Requests for information;
2. Requests for service (generally on behalf of others); and
3. General discussion about Council matters.

Interactions can be written or verbal and may occur at a range of events such as Councillor Briefings, committee meetings, civic receptions, workshops, informal meetings or other formal and informal opportunities.

If any Councillor or staff member has concerns in regard to interactions between Councillors and staff, the matter will be referred to the CEO who is responsible for the management of such interactions.

Councillors will refrain from making negative comments or allegations about members of Council staff or Contractors, in a public forum (including at Council meetings and on social media platforms).

A Councillor may request that a staff member attend to provide advice and support in a meeting with a member (or members) of the public. Such a request must be made through the CEO or relevant Director.

Councillor interaction in a non-Councillor capacity with Council staff

To protect Councillors against accusations of obtaining preferential staff treatment when interacting in a non-Councillor capacity with Council staff, all future staff contact made by Councillors not in a Councillor role must be via the process available to all Baw Baw community members.

If a Councillor wants to make contact with Council, for example about their property, a service provided by Council to the Councillor as a community member, or the condition of a road in front of their property, the contact must be made using one of the following public avenues: using the Snap Send Solve application, by phone to 1300 BAW BAW, or via online form available on the Baw Baw Shire website and the Councillor must advise that the contact is not being made in their Councillor role.

Protocols

Interactions between Councillors and staff should occur with the CEO or Directors (who together form the Executive Leadership 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 CEO and Directors
- Governance team
- Communications team
- Staff Advisory Committee Liaison
- Others with CEO approval

Notwithstanding the above, Councillors should direct their enquiries to managerial staff to lodge or follow-up on service requests or requests for information.

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Staff other than the CEO, Executive Members, 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 member of the Executive. Correspondingly, staff should not seek to make direct contact with Councillors without their Manager's consent.

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 member of the Executive Team.

1. Written requests for information (inclusive of letters, emails, texts or social media)
 - a. Where the matter is of broad interest to Council or Councillors, or may result from or be expected to be, brought to a Councillor Briefing or Council Meeting
 - i. 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
 - ii. The Councillor or staff member that initiates the correspondence will generally include as a minimum all Councillors and the Executive Leadership Team as recipients to the communication
 - iii. 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
 - iv. 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
2. Verbal requests for information (inclusive of face-to-face, phone calls, meetings or events)
 - a. Where the matter is of broad interest to Council or Councillors, or may result from or be expected to be brought to a Councillor Briefing or Council Meeting
 - i. It is appropriate to share information with all Councillors to support informed discussion and decision-making
 - ii. The staff member will advise the relevant Executive Member or CEO of the discussion between Councillor and staff member
 - iii. The staff member will provide an overview of the discussion to all Councillors either through:
 1. Email with relevant details;
 2. Inclusion in a Councillor Briefing report; or
3. Service Requests (CRM's)
 - a. Recommended Protocol to support efficient and timely response to Customer and Community issues
 - i. 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



- ii. 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)
 - iii. 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
- b. Alternative Protocol for Customers and Community
- i. Where the community member or customer is unwilling or unable to contact Council directly, a Councillor may forward the request to the organisation so that it can be lodged as a Councillor CRM and a response provided to the customer; or
 - ii. Not forward the request noting that it will not be addressed in which instance the Councillor should advise the customer
 - iii. Councillors are encouraged to direct the request as promptly as possible to Council via bawbaw@bawbawshire.vic.gov.au for registration in the Customer Request Maintenance (CRM) system.
 1. Requests will be forwarded with sufficient customer details, so that the customer can be registered for the CRM (unless in exceptional circumstances). Councillors will indicate if they desire a copy of the officer's response to the customer at the conclusion of the matter, where the response does not disclose matters that may be private to the customer. A Councillor would receive this advice at the same time as the customer receives the response.
- c. Protocol where Councillors identify an issue
- i. If the Councillor has observed an issue that is operational in nature, then the Councillor will email bawbaw@bawbawshire.vic.gov.au directly, as would occur with any community member, or send to Executive Assistant to Mayor and Councillors who will forward the request to be raised as a Councillor CRM.
 - ii. Councillors may also wish to download the Snap Send Solve app to their mobile devices and lodge requests in this manner.
 - iii. In these instances, the Councillor will nominate themselves as the customer for registration in the CRM system

Service requests lodged via or by Councillors will be registered in a manner that enables reports of Councillor requests lodged to be generated and circulated to individual or all Councillors if the CEO determines that this is appropriate.

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.
 - iv. Where Councillors identify an issue that is strategic in nature or policy related, this request will be assigned to the relevant Director for action.

d. Timelines and Reporting

In accordance with the adopted Customer Service Policy, Councillors lodging CRM requests will receive a confirmation email within 2 days of the request being received with the aim of resolving the request within 10 business days. A report of Councillor CRM's is generated and provided to all Councillors on a fortnightly basis.

4. Mayor and Councillors and Staff attending events, committees, forums or meetings

Where a meeting is attended by Councillors and staff and there are minutes or meeting notes recorded and circulated to all Councillors as a standard practice (e.g. Councillor Briefing), this protocol does not impose any further actions.

Where a meeting is attended by Councillors and staff and the minutes or meeting notes are generally only circulated to those Councillors in attendance (e.g. a project meeting), then the responsible staff member will ensure that these meeting notes or minutes are made available to all Councillors at a shared location.

Incidental interactions that occur at events or meetings that are not captured in minutes or meetings notes will be treated as outlined in Protocols Section 2. The staff member will be responsible for these actions.

Related Matters

1. Extended Dialogue

a. 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.

2. Requests for meetings

a. Matters will typically be addressed via email or Councillor Briefing sessions rather than meetings with individual Councillors.

b. Requests for meetings with Councillors and officers are considered appropriate when the matter is an agenda item for a Councillor briefing or in the broad interest of the whole Council. In these situations, requests are to be made through the responsible Director.

3. Requests for access to documents or copies of documents

a. 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 provide this through a report or attachment to a report in the Council meeting agenda.

b. Subject to relevant legislation, and CEO discretion, Councillors can obtain any information that assists them in fulfilling their duties as a Councillor.

4. Distribution Principles

a. Correspondence designated confidential, private or not for distribution

i. 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

- ii. The CEO may at times forward Councillor's communication to any other Councillor or staff member, despite the communication being designated confidential, private or not for distribution by the author
- b. Advice and information to external parties, including responses to service requests
- i. Information and advice responding to service requests or requests for information lodged by Councillors on behalf of community members or customers shall be provided to the customer by a staff member
 - ii. Where Councillors have lodged a 'Councillor CRM', the request will be actioned, the CRM updated and reported to Councillors on a fortnightly basis.
 - iii. Information and advice prepared by staff for Councillors should not be circulated to external parties by Councillors. This is especially important for matters relating to planning, compliance and enforcement or where advice may include details based on legal advice or proceedings. If the information relates to a matter requiring a Council resolution, such information may be more appropriately provided to Council via formal reports at Council meetings to support Councillors in their role in participating in the decision-making of the Council.

c. 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

5. Friendships

It is recognised that Councillors and staff often live in the same community and may form friendships. The following protocols will apply:

- a. Social media friendships are not the appropriate channel for Council-related interactions and should not be used for this purpose
- b. Social events are not the appropriate place for Council-related interactions

Councillors should not engage with staff with whom they have friendships in any discussion about operational or personnel matters.

If Council-related matters are discussed in these situations, then the staff member should treat the matter as if it is a verbal interaction (refer to Protocols Section 2).

6. Access to Workplaces

Councillors are provided with areas within which to conduct Council business. These spaces should be used when Councillors and staff need to meet or discuss Council-related business. Councillor access to operational areas or work locations will only occur with the consent of the CEO.

7. Avoid Seeking to Influence Officers

a. Council Meeting Reports

Officers prepare reports for consideration by the Council at Ordinary and Special 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 regarding information or clarification of Council reports will occur via discussion at Councillor briefing sessions or via email correspondence that is shared by all Councillors.

b. Actions Taken and Decisions Made under Delegation

Officers are delegated to take actions and make decisions on behalf of council and Councillors must not seek to influence officers in exercising these delegations.

Specified officers are also designated as Authorised Officers under various enabling legislation, providing particular authority for them to undertake their role. In particular this includes areas of compliance and enforcement, such as local laws, planning compliance and environmental health. These areas often involve legal proceedings that may also be compromised by communication or actions on behalf of Council by persons other than the Authorised Officers.

To support the above principles, Councillors should avoid requests for detailed information and avoid seeking direct interaction about these matters. Staff will provide appropriate information at appropriate times, such as overall status or issues that may represent a significant risk to council.

c. Complaints Management

Council has an adopted 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.

d. Repetition and Urgency

Regarding the need to avoid seeking to influence officers, this includes repeated asking of questions and overly stressing the urgency of a matter. When interacting with members of Council staff, Councillors will observe the *Local Government Act 2020*, the Councillor Code of Conduct, and other relevant Council policies. Councillors will

- consider the potential impact on staff and available resources and priorities when requesting advice or information,
- avoid making requests that are likely to involve excessive work (excessive time is classified as two days of cumulative officer time), any requests involving cost or excessive work require a Notice of Motion, and
- communicate in a way that is courteous and respectful of staff members' wellbeing.



Complaints and Breach of this Policy

The CEO in accordance with Section 48 (3C) of the *Local Government Act 2020* will monitor compliance with this policy and oversee the management of any complaint or concern raised in relation to compliance with this policy.

If a Councillor believes that there may have been non-compliance with this policy, the matter should first be raised in writing in accordance with the Councillor Code of Conduct.

If a staff member believes that there may have been non-compliance with this policy (including improper direction), the matter should first be raised in writing with the relevant Director, who will advise the CEO.

With respect to a written complaint concerning a breach of this policy, the CEO will investigate and determine the appropriate course of action as the "owner" of the policy\.

A breach of this policy by Councillors or staff is considered to be, and will be treated as, a breach of the respective Codes of Conduct. Any suspected or reported breach will be addressed in line with the relevant provisions of the particular Code of Conduct.



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