

Elected Member Information and Interaction with Staff



Title: Elected Member Interaction with Staff

Adopted By: COUNCIL

Responsibility: Chief Executive Officer

Next Review Date: Refer' Policy and Procedure Framework

Version	Decision Number	Adoption Date	History
1			DRAFT
2			
3			
4			

Policy Summary

This policy establishes the protocols to be followed to enable Elected Members to gain access to information through appropriate channels.

Elected Members of Katherine Town Council need appropriate access to information in order to carry out their role as described in Section 35 of the Northern Territory Local Government Act (NT LGA):

- To represent the interests of residents and ratepayers
- To provide leadership and guidance
- To facilitate communication
- To participate in Council deliberations
- To ensure Council acts honestly, efficiently and appropriately

This policy also recognises that Elected Members and staff have very distinct but complementary roles to perform in the effective operation of Council. In order to perform these roles there needs to be a respectful understanding and appreciation of the rights and responsibilities of the parties.

Policy Objective

Elected members should not become involved in the day to day management of the Council, nor should staff become involved in the political processes of the Council.

The objectives of this policy are to:

- Provide a standard approach by which Elected Members can access Council information
- Ensure timely access for Elected Members to all documents required by them to undertake their statutory responsibilities pursuant to the NT Local Government Act and other Acts
- Complement the provisions of the NT Local Government Act
- Help Elected Members and staff better understand their respective roles and responsibilities
- Provide clarity around the process of interaction between Elected Members and staff, and the use of resources
- Ensure community confidence in the probity of Council

Background

From time to time Elected Members seek access to Council information. Not all Council information is necessarily accessible to some or all Elected Members for reasons of privacy, confidentiality, legal restraint or conflict of interest. A lack of documented policy has the potential to cause inconsistencies in the way that requests for information are processed.

Requests for some information may also create a significant cost to Council to research and document. Where such a request by an Elected Member imposes an unreasonable impost and/or does not directly relate to the Elected Members role on Council, there needs to be a mechanism established to define the level of service provided, and to make provision for review if necessary.

Equally, from time to time Elected Members or staff may interact in a manner that is inconsistent with the intent of the separation of roles and responsibilities defined within the Act. Again, a lack of documented policy has the potential to create conflict and/or a breach of Council's Code of Conduct.

Policy Statement

1. Access to Information

Elected Member Access to Information

- i. The Chief Executive Officer must provide Elected Members with sufficient information to enable them to carry out their role. Elected Members have a right to inspect any record of the Council provided that it is relevant to the exercising of the Elected Member's responsibility in his or her civic office and is not subject to privacy, confidentiality or legal restraint.

- ii. Elected Members can also request access to other documents of the Council either by a request to the relevant Manager or Chief Executive Officer, Notice of Motion to the Council, a Freedom of Information application, or a Section 200 request for access to information. Staff will expedite access to the requested document providing the request is in accordance with dot point i. Any recommendation to deny access will be referred to the Chief Executive Officer.
- iii. Elected Members shall have access to Council related documents stored in the Elected Members folder in the computer system. This area will also make provision for secure storage of documents in a personal folder accessible only by each Elected Member. There will be no access through this system to Council's records database.
- iv. Information sought by and provided to an Elected Member will be copied and distributed to all Elected Members. The basis of this being that if it is information required to inform good decision making by one Elected Member, then the same information is relevant to the considerations of all Elected Members. Such distribution shall occur regardless of whether the original request was marked private or confidential.
- v. Elected Members who have a private interest (as distinct from their role as an Elected Member); or have a personal or pecuniary interest in information, have the same rights of access as any member of the public (Refer to Section 200 of the NT Local Government Act).
- vi. Access will be provided to documents and files necessary for the Mayoral role. This includes files relevant to correspondence received directly by the Mayor and is subject to the same viewing rules. As an Elected Member, the Mayor is subject to the same requirements of access as apply to other Elected Members.

2. Use of Information

- i. It is recognised that Elected Members have a role both as a member of the governing body of the Council and as an elected person. While it is desirable in the public interest to maintain open government, not all information available to Elected Members is available to members of the public.
- ii. Elected Members are made privy to information of a confidential nature the disclosure of which is specifically prohibited in certain circumstances. The right of Elected Members to have access to records is for the purpose of exercising the office of Elected Member. It does not carry with it the right to disclose any information obtained by an Elected Member to another person, unless it is already in the public domain. An Elected Member has no authority to release documents on behalf of Council.
- iii. In regard to information obtained in the Elected Member's role, the Elected Member must:
 - a. Only access Council information needed for Council business
 - b. Not use that information for private purposes
 - c. Not seek, or obtain, either directly or indirectly, any financial benefit or other improper advantage for themselves, or any other person or body, from any information to which they have by virtue of their role with Council

- d. Only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation
 - e. Protect confidential information by not disclosing any information discussed or viewed during a confidential session of a Council meeting or briefing
 - f. Only release confidential information if the Elected Member has the authority to do so
 - g. Only use confidential information for the purpose it is intended to be used
 - h. Not use confidential information gained through the Elected Member's role for the purpose of securing a private benefit for the Elected Member or for any other person
 - i. Not use confidential information with the intention to cause harm or detriment to council or any other person or body
- iv. The Mayor shall not cause the by-passing of the general access provisions by providing to Elected Members information made available through the Mayoral role
 - v. Elected Members shall not cause the by-passing of Information Act provisions by providing to a member of the public information made available to Elected Members as an elected representative

3. Refusal of Access to Information

- i. Where the Chief Executive Officer determines to refuse access to information sought by an Elected Member, the Chief Executive Officer must act reasonably. In reaching this decision, the Chief Executive Officer must take into account whether or not the document sought is required for the Elected Member to perform their role. The Chief Executive Officer must, in writing, state the reasons for the decision if access is refused.
- ii. If the Chief Executive Officer decides that access to a document or other information held by the Council should not be given to an Elected Member, and the matter is not a Section 200 request, then the Elected Member has a number of options:
 - a. Take no further action
 - b. Seek a review by the Chief Executive Officer
 - c. Seek Council support for the requested access by lodging a Notice of Motion
 - d. Lodge an Information Act application
- iii. If the Council passes a motion for the production of a Council record, then the Chief Executive Officer must allow such access and the inspection is carried out.

4. Interaction between Elected Members and Council Staff

The Statutory roles, duties and powers of the Mayor, Elected members, and the Chief Executive Officer are set out in Sections 35; 43; and 101 of the Local Government Act.

Inappropriate Interactions

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

- Elected Members approaching other than senior staff for information on sensitive or controversial matters
- Members of staff approaching Elected Members directly on staffing or political issues
- Elected Members approaching other than senior staff outside the Council building or outside hours of work to discuss Council business
- Staff being asked to answer questions or provide documents to Elected Members who are overbearing or threatening
- Elected Members directing or pressuring staff in the performance of their work, or recommendations they should make
- Staff providing advice to Elected Members without recording or documenting the interaction as they would if the advice was provided to a member of the community
- Elected Members approaching staff to undertake works including the preparation of reports and/or letters
- Elected Members attending staff meetings, including union meetings, without having obtained the authorisation of Council

Interactions between Elected Members and Council Staff

Parties need to be aware of their obligations to observe the policy during contact between Elected Members and staff inside and outside work and the sanctions associated with any breaches.

- All enquiries for information or Council records are to be directed in the first instance to the Chief Executive Officer, or to a Group Manager. The enquiry may be redirected by that person to another staff member.
- Elected Members should put their requests in writing to be answered by the Chief Executive Officer, or the appropriate Manager. These written requests, and any response thereon, then form part of Council's records and can be filed appropriately.
- A copy of each written request, along with a copy of the response, will be provided to the Elected Member. Copies of these documents will also be provided to all other Elected Members to ensure that all members are updated on relevant information.
- Where an enquiry is of a minor, or trivial nature (such as enquiries about the opening hours of the library, or whether the low level is open or closed) are generic in nature and should be made verbally. In most instances these are public enquiry requests that any member of the public would access through customer services.
- A manager has the discretion to refer a request for information to the Chief Executive Officer in circumstances where that Manager considers that the request may need to be refused.

- Where staff, other than senior staff, need to talk about work related issues with an Elected Member, including the Mayor, they must first notify the Chief Executive Officer. The contact is to be recorded. Notification is not required when the contact is a straight-forward administrative one being dealt with as part of routine work.
- Elected Members must not attempt to direct or influence staff as to the performance of their work. Staff must report all such attempts immediately to their Manager, or to the Chief Executive Officer.
- An Elected Member shall not attend staff meetings, including union meetings, unless specifically authorised by Council resolution.
- Elected Members must not request staff to undertake work for the Elected Member, or any other person.
- Elected Members have no right to enter private property or to issue directions or authorisations to members of the public unless expressly authorised by resolution of the Council.

Access to Council Offices

- As an elected member of the Council. Elected Members are entitled to have access to the Council Chamber, meeting rooms and the public areas of the council buildings.
- Elected Members who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- An Elected Member, other than the Mayor, has no rights to enter staff-only areas without the express authorisation of the Chief Executive Officer or by resolution of the Council.

Breaches of this Policy

1. Reporting

- All occasions of an Elected Member or staff member not complying with this policy should be reported immediately to the Mayor or Chief Executive Officer
- Where the report relates to the conduct of an Elected Member, the Chief Executive Officer shall immediately report the matter to the Mayor and to the next Council meeting
- Where the report relates to the conduct of staff, the Chief Executive Officer shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is by counselling, disciplinary action or dismissal
- Where an Elected Member believes that the Chief Executive Officer has failed to comply with the policy, the Elected Member shall immediately report to the Mayor who will report the matter to the Council

- Before a report to Council by the Chief Executive Officer (or the Mayor) the Chief Executive Officer (or the Mayor) should undertake preliminary enquiries to establish the facts. The preliminary investigations may take any form the Mayor or Chief Executive Officer considers appropriate, but must involve discussions with the staff member and Elected Member concerned. Natural justice principles need to be satisfied in dealing with an alleged breach
- The Council must decide whether a matter reported to it under this policy, reveals a breach. The Council may take any steps provided for in this policy that it considers reasonable in the circumstances.

2. Sanctions

Council, having resolved that an Elected Member has failed to comply with this policy, can, by resolution:

- Require the Elected Member to apologise to the person concerned
- Request a formal apology
- Counsel the Elected Member
- Reprimand the Elected Member
- Pass a censure motion at a Council meeting
- Make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report)
- Refer the matter to an appropriate investigative body if the matter is serious and/or
- Prosecute any breach of the law

Sanctions for staff, depending on the severity, scale and importance of the breach, may include

- Counselling the staff member
- Instituting Council disciplinary proceedings, or
- Dismissal

Legislation, Terminology and References

Section 200 of the 2000 Local Government Act provides for the information that is required to be publicly available on Council's website and at Council's public office