

Purpose

The purpose of these guidelines is to provide clarity for Councillors and staff so they are clear about their obligations and duties under the *Local Government Act 2020*, and/or their respective Codes of Conduct.

These guidelines apply to all Moonee Valley City Councillors, staff, contractors and volunteers

Any questions about these guidelines should be directed to the Director of Enabling Services, the Office of the CEO or the Manager of Governance and Legal.

Legislative basis for Councillor and Council staff interaction

The *Local Government Act 2020* (the Act) prescribes the roles and functions of Council, Councillors and staff and the nature of the relationships between them.

Section 8 (1) of the Act states that; *“The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.”*

The core role of a Councillor is to participate in the decision-making of the Council; represent the local community in that decision-making and contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

Collectively Councillors exercise leadership in providing good governance of the organisation and the local community to which they are ultimately accountable.

The Act provides for separation between the governance functions of Councillors and the administrative and operational functions of the organisation. This is evident throughout the scheme of the Act. For example:

- Section 123 prohibits a Councillor from misusing their position to gain (or attempt to gain) an advantage for themselves or another. Misuse of their position can occur when a Councillor directs or improperly influences, or seeks to direct or improperly influence, a staff member in the making of a delegated or statutory decision.
- Section 124 prohibits a Councillor from directing, or seeking to direct, a member of Council staff in the making of a delegated or statutory decision.
- Section 46 specifies the functions of the CEO, in particular sub-section (3) (c) states that the Chief Executive Officer 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”*.
- Section 28 (3) provides that, *“[t]he role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer”*.
- Section 46 (3) (b) provides that, the Chief Executive Officer is responsible for *“...all staff matters, including appointing, managing and dismissing members of Council Staff.”*

Staff’s role with respect to Councillors can be described briefly as:

- To provide frank and fearless advice respectfully to Council in aid of its primary objective as the key decision-making body for Moonee Valley City Council.
- Being responsible and accountable through the CEO for implementing Council’s decisions, efficiently and effectively, to deliver beneficial outcomes for the whole community.

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Staff contact with Councillors should adhere to these standards at all times:

- Treat Councillors with respect due to their office as elected representatives of the community. This includes, in all formal settings, addressing Councillors as 'Councillor (last name)' and the Mayor as 'Mayor';
- Staff should not use their relationship with Councillors to advance their personal interests to influence decisions improperly;
- Staff should refrain from approaching Councillors directly;
- Staff must have an awareness of and sensitivity to the political environment and do not make any public comment or criticism regarding Councillors and Council decisions (consistent with the obligations set out in the Staff Code of Conduct);
- Ensure all Councillors are treated equally and requested advice and information is shared with all Councillors through existing formal channels.

Councillor and Council staff interaction

The *Local Government Act 2020* requires appropriate separation between the governance, administrative and operational functions of the organisation, as this reflects best practice in governance and mitigates risks. There are a number of potential risks that may arise when Councillors have direct dealings with staff, including:

- Councillors might inadvertently seek, or be perceived as seeking, to directly or improperly influence a staff member in the provision of advice to Council or on the discharge of a delegated or statutory function.
- In an effort to be responsive to individual Councillor requests, staff inadvertently act contrary to Council policy or beyond delegated or statutory function.
- Staff might provide advice or act when not in possession of all relevant facts and information, thereby inadvertently misleading the Councillor. This is a particular risk during busy times when an issue is a focus of the community or on a media deadline. This may also present a potential breach of Staff Code of Conduct in terms of proper process of escalating issues.
- Councillors might inadvertently seek, or be perceived as seeking, to obtain information from a staff member for their own political or personal benefit.
- Staff might inadvertently seek, or be perceived as seeking, to influence Councillors for their own personal advantage.

These risks are magnified for less senior staff members, because of the power imbalance between Councillors and staff. In order to comply with the Act, meet contemporary governance standards and to appropriately manage these risks, it is important that Councillors and staff act consistently with the requirements of this protocol.

It is also important for staff not to fear threats from community members to escalate an issue to a Councillor, particularly when they have been demonstrating organisational values during the interaction. In this instance staff should take note of the matter and alert their supervisor and Director/ELT member¹.

¹ ELT comprises of: CEO; Director Strategy & Planning; Director Service Delivery; Director Enabling; Manager Corporate Affairs; and Manager Legal & Governance.

Contact between Councillors and Staff

In their capacity as elected representatives of the community, Councillors will have a need to request action, advice and/or information on matters pertaining to the day-to-day running of Council business. To ensure a consistent, coordinated and timely response Councillors and staff are required to comply with the following arrangements when dealing with a Councillor request for any action or advice. For the purposes of this protocol, “staff” includes contractors and volunteers to Council.

Councillor requests and logging issues on behalf of residents/community

Councillor requests can be made in person, via telephone or email to the Councillor Liaison Officer (CLO). The CLO will triage requests and if the matter can be quickly resolved, will take the necessary action.

If the matter cannot be quickly and easily resolved, the CLO will allocate to the office of the relevant responsible officer for action, then endorsement from the relevant Director before providing advice back to the Councillor. The referral from the CLO to the relevant responsible officer will ordinarily happen on the same business day as the matter is reported to the CLO (or if reported over the weekend on the next business day).

The CLO may flag a matter that is sensitive, complex or likely to be controversial and require that it be reported back and finalised through the CLO or that the CLO be consulted prior to finalisation.

The CLO will monitor progress of all Councillors’ requests and provide weekly updates to Councillors of their requests. If a Councillor has a query about a Customer Request Management (CRM) matter this must be directed to the CLO. If the issue relates to a resident it will be progressed in accordance with the *Agreed Service Level* as detailed in the *Appendix* to ensure consistent service levels are provided.

Councillors are encouraged to direct residents to Council’s customer service centre on 9243 8888, or council@mvcc.vic.gov.au, particularly if it is the first time they are reporting an operational matter. If the resident requires translator assistance this can be arranged via our Customer service centre team.

Refer flowchart (Appendix) for managing Councillor requests.

Direct contact between Councillors and staff in relation to the exercise of a delegated or statutory function by that staff member

As a general rule there should be no direct contact between officers and Councillors on any operational matters. However, on rare occasions contact with relevant statutory officer may occur with the authorization of the relevant Director or ELT member. The staff must debrief the relevant Director.

Care *must* be taken in regard to the exercise of statutory decision making in particular, as it may well constitute an offence to improperly make, influence, or seek to improperly make or influence a statutory decision.

Direct contact between Councillors and staff where a conflict of interest exists as defined under the Act

As Councillors live in the municipality, there may be occasions where staff will be required to deal with a Councillor in their private capacity. Councillors should declare in writing that they are approaching the Council in a private capacity – and use their private email address and go through normal Council channels and processes.

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Staff under these circumstances must deal with the Councillor's issues without fear or favour, treating them equally to any other member of the community.

Councillors attending meetings with individuals or community groups, and attending community consultation sessions

Part of a Councillor's role is to represent the views of the community in Council decision making. This is ordinarily achieved through participation in Council meetings. The Act requires every Councillor to represent the interest of the municipal community in decision making, and Councillors are encouraged to avoid taking an advocacy role for individual residents or individual community groups in Council decision making or in relation to administrative or operational matters.

Councillors may, if exceptional circumstances exist, wish to be present at meetings (incl. site inspections) between residents and Council staff about an administrative or operational issue. In such a case the Councillor should notify the relevant Director or ELT member prior to the meeting (generally 48 hours' notice should be given).

Councillors may also wish to attend meetings between Council staff and community groups/representatives/external stakeholders on administrative or operational matters. If a Councillor wishes to attend such a meeting they should advise the relevant Director/ELT member ahead of that meeting (generally 48 hours' notice).

A Councillor attending a meeting between Council staff and any individual or community group to act as an interpreter is not appropriate – Council officers will arrange external interpreters or another (e.g. family member or friend).

Councillors are expected to exercise due care in attending meetings between Council staff and individual residents or individual community groups etc. They must not, and must not be seen to, direct or influence staff. To do so risks the Councillor breaching section 123 or 124 of the Act.

Equally, Councillors must not criticize or belittle staff in front of any external person or entity to Council. Any concerns held by a Councillor about a member of staff must be raised privately with the CEO, consistent with the legislative requirements of the *Local Government Act 2020*.

Council staff will frequently undertake community consultation or engagement processes and Councillors may wish to attend such consultation sessions. The opportunity to attend will be afforded to every Councillor and Councillors are encouraged to advise the relevant Director / ELT member that they will be attending ahead of time (generally 48 hours' notice should be given). This will assist in the planning and conduct of the community consultation.

When attending community consultation sessions, Councillors are expected to be careful not to put themselves in a position where it might be argued that they have pre-judged an issue that will later be decided by Council. This may prejudice the Councillor's capacity to participate in the future decision, or place a decision at risk of being found to be invalid, consistent with the decision of the Victorian Supreme Court in *Winky Pop Pty Ltd & Anor v Hobsons Bay City Council* [2007] VSC 468.

Social and other contact between Councillors and staff

It is also recognised that Councillors and staff might have private relationships. This, in some instances, is unavoidable. It is imperative that both parties manage a clear separation between the private aspects of their relationships and their professional responsibilities. Contact between Councillors and staff that is not in accordance with this protocol may result in a breach of the Act, the *Councillor Code of Conduct* and/or the *staff Code of Conduct*.

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Support to Councillors in their decision-making role

The primary role of Councillors is to participate fully and actively in making decisions as part of Council, that are in the best interests of the community as a whole over the longer term. Strategic Briefings are used to inform Councillors and engage them in policy deliberations and discussions prior to matters being formally deliberated upon and decided in Council meetings.

To assist Councillors in their preparation for Strategic Briefings and Council meetings relevant ELT members will ensure all Councillors are fairly and equally supported regarding questions they may have with the Agenda papers, motions they wish to draft etc.

It is recognised that at times, it will be beneficial for Councillors to speak directly with other senior Council staff when preparing for Strategic Briefings and meetings. This is acceptable provided that prior arrangements are made through the relevant Director or ELT member.

The exceptions to this are:

- Manager Planning and Building, in acknowledging the specialized expertise involved and frequency of planning matters brought to Chamber for decision.
- Councillor Liaison officer
- Appropriate members of the Governance team, in relation to governance matters.
- Appropriate members of the Communications team on urgent media or digital matters involving or concerning the Councillor.
- Councillor Support Officers as they provide day to day support to Mayor and Councillors.
- Chief Information Officer (CIO)
- Chief Financial Officer (CFO)

There may be instances where Councillors interact directly with staff that support them on various Committees or organisations that have Council representation. This is appropriate, but the interaction must only be with respect to the business of the Committee/organisation and all other aspects of this protocol apply.

To assist with directing Councillor requests, please refer to the following guide:

	Type of Request	Who
1	Strategic Briefing and/or Council Meeting Agenda items <ul style="list-style-type: none"> • Council resolutions/ Alternative motions • Questions on specific Agenda items <i>(Standard business-as-usual governance items such as preparation of NOMs, review of Council Minutes etc. to be directed as usual to Manager Legal & Governance)</i>	Relevant Director or ELT member, with a cc to CEO
2	Factual advice and/or technical expertise required on Council program, project, strategy, policy or procedure matters. Responses provided to all Councillors, subject to CEO discretion.	Relevant Director with a cc to CEO? OR CEO
3	Confidential information and matters at the Councillors' discretion including NOMs; Sensitive governance advice	CEO
4	Operational requests / complaints from residents and community members escalated to Councillors	CLO (Councillor Liaison Officer)

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	Type of Request	Who
5	<ul style="list-style-type: none"> Administrative support including business expense reimbursements, organizing meetings on a Councillor's behalf, conference and travel arrangements, training requirements, help with navigating Council systems (websites and Portal), room bookings and so forth Previous reports to and resolutions of Council 	CSO (Councillor Support Officers)

Review

This protocol will be reviewed at least biennially as part of the governance review.

APPENDIX

Councillor Requests and logging matters on behalf of residents / community members

Responsibility	Action
Councillor Liaison Officer (CLO)	<ul style="list-style-type: none"> Acknowledge Cr request CRM triage – quick resolution or CRM created and referred Advise Cr CRM number and responsible Manager Monitor CRMs and provide weekly report to Crs of their requests Follow up with relevant Manager/Officer re outstanding CRMs Advise requesting Councillor of resolution if requested. Advise Councillors of status via weekly report Finalise/ update CRM on weekly report to Councillors.
Responsible Manager (RM)	<ul style="list-style-type: none"> Manage and allocate CRM Escalate to Director if matter is sensitive or controversial Monitor relevant CRMs
Responsible Officer (RO)	<ul style="list-style-type: none"> Contact resident / community member Clarify issue Advise contact details Advise timeframe for resolution of issue Discuss and agree to frequency of updates, if required

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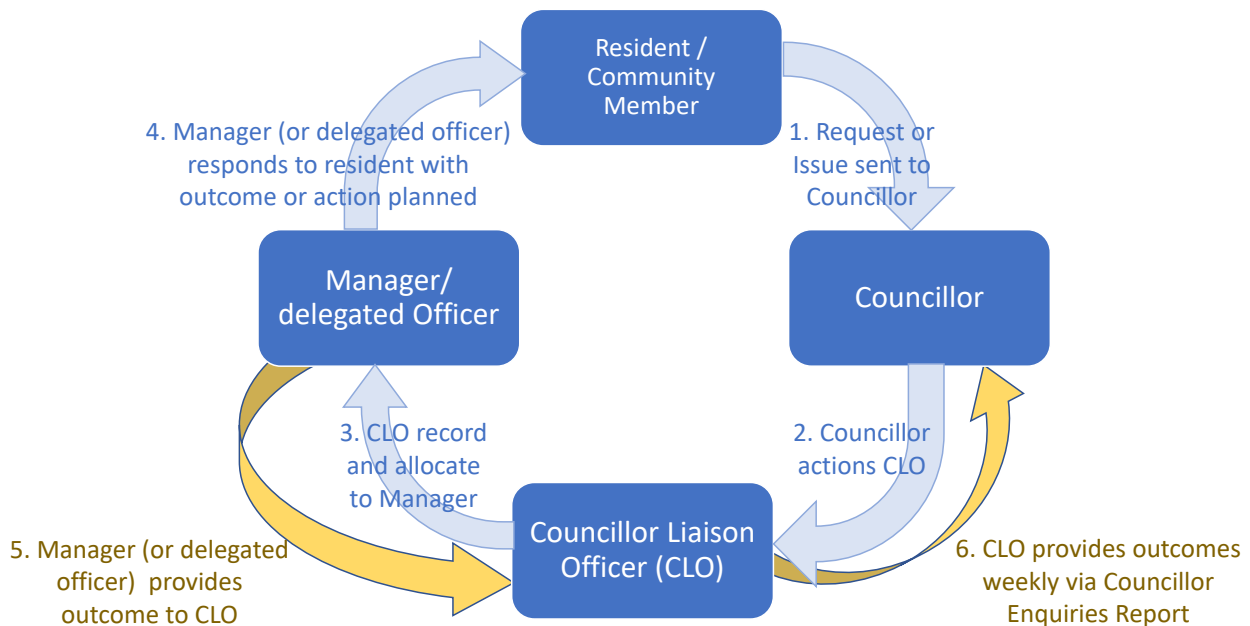
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Protocol for Councillor and Council Staff Interaction

Responsibility	Action
	<ul style="list-style-type: none"> • Where initial timeframe has not been met, update resident and CLO • Update CLO with contact if matter is referred to another area/ external authority • Update CLO with key/final action • Resolve issue (Advise Director if matter was escalated) • Update and complete CRM action on Content Manager

** The CLO may flag a matter that is sensitive, complex or likely to be controversial and require that it be reported back and finalised through the CLO or that the CLO be consulted prior to finalisation.*

Councillor CRM Flow Chart



Agreed levels of service

The following Service level agreement helps manage enquiries from members of the community to Councillors that are operational in nature and require action by Council officers.

Requests are categorised as:

<p>High Priority (response required within 24 hours)</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Emergency situations • Items that have a high level of sensitivity – e.g. sensitive VCAT matters • Urgent/sensitive parking or enforcement matters • Queries regarding works being undertaken within the next 48 hours • Queries about works currently being undertaken • Matters relating to the next Council Meeting.
<p>Medium Priority (response required within 5 working days)</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Queries about works being undertaken in seven or more days' time
<p>Low Priority (response required within 10 working days)</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Program of trees being planted • Program of works being done (long term) • Program of parking restrictions/changes to be introduced

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