



## ELECTED MEMBER INFORMATION AND INTERACTION WITH STAFF POLICY

Type:	Council – Elected Members		
Owner:	Council		
Responsible Officer:	Chief Executive Officer		
Approval Date:	28/01/2025	Next Review:	01/12/2028
Records Number:	228993	Council/CEO Decision:	OMC-2025-006
Legislation Reference:	Section 119 of the Local Government Act 2019		

### 1 PURPOSE

The purpose of this policy is to establish the protocols to be followed to enable Elected Members to gain access to information through appropriate channels in order to carry out their role as described in Section 119 of the *Local Government Act 2019* and Code of Conduct 5 Conduct towards staff.

### 2 SCOPE

This policy applies to elected members, Chief Executive Officer and Council employees with Katherine Town Council.

### 3 DEFINITIONS

**CEO** means Chief Executive Officer.

**Mayor** means the Principal Member of Katherine Town Council.

**Code of Conduct 5. Conduct towards council staff** – A member must not direct, reprimand, or interfere in the management, of staff.

**Council Staff** means everyone working for Katherine Town Council within their facilities or as a sub-contractor.

### 4 DETAILS

This policy 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.

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.

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.

Elected Members can request access to other documents of the Council either by a request to the Chief Executive Officer, Notice of Motion to the Council, a Freedom of Information application, or a Section 292 of the *Local Government Act 2019* request for access to information. Staff will expedite access to the requested document providing the request is in accordance with these items. Any recommendation to deny access will be referred to by the Chief Executive Officer.

Elected Members shall have access to Council related documents stored in the Elected Members folder in the computer system. There will be no access through this system to Council's records database.

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.

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 292 of the *Local Government Act 2019*).

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.

#### 4.1 Policy Objectives

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.

Objectives of this policy are to:

- (a) Provide a standard approach by which Elected Members can access Council information; and
- (b) Ensure timely access for Elected Members to all documents required by them to undertake their statutory responsibilities pursuant to the *Local Government Act 2019* and other Acts; and
- (c) Complement the provisions of the *Local Government Act 2019*; and
- (d) Help Elected Members and staff better understand their respective roles and responsibilities; and
- (e) Provide clarity around the process of interaction between Elected Members and staff, and the use of resources; and
- (f) Ensure community confidence in the probity of Council.

#### 4.2 Role of the Elected member

Elected Members of Katherine Town Council need appropriate access to information in order to carry out their role as described in Section 44 of the Northern Territory *Local Government Act 2019*:

- 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

### 4.3 Role of the CEO

Role of the CEO is to create a bridge between the elected members and staff. CEO is the person who will receive all the inquiries from the elected members. CEO may then ask a staff member to interact with the elected members accordingly.

Where the CEO determines to refuse access to information sought by an Elected Member, the CEO must act reasonably. In reaching this decision, the CEO must take into account whether or not the document sought is required for the Elected Member to perform their role. The CEO must, in writing, state the reasons for the decision if access is refused. 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, or
- d. Lodge an Information Act application.

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.

### 4.4 Use of Information

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.

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.

In regard to information obtained in the Elected Member's role, the Elected Member must:

- (a) Only access Council information needed for Council business; and
- (b) Not use that information for private purposes; and
- (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; and

- (d) Only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation; and
- (e) Protect confidential information by not disclosing any information discussed or viewed during a confidential session of a Council meeting or briefing; and
- (f) Only release confidential information if the Elected Member has the authority to do so; and
- (g) Only use confidential information for the purpose it is intended to be used; and
- (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; and
- (i) Not use confidential information with the intention to cause harm or detriment to council or any other person or body.

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; and Elected Members shall not cause the by-passing of the Information Act provisions by providing to a member of the public information made available to Elected Members as an elected representative.

#### 4.5 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 18; 44; and 167 of the Local Government Act 2019.

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.

- (a) All enquiries for information or Council records are to be directed to the Chief Executive Officer. The enquiry may be redirected by the CEO to another staff member.
- (b) Elected Members should put their requests in writing to be answered by the Chief Executive Officer. These written requests, and any response thereon, then form part of Council's records and can be filed appropriately.
- (c) 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.
- (d) 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.
- (e) Where staff need to talk about work related issues with an Elected Member, including the Mayor, they must first notify the CEO. 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.
- (f) 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 CEO.
- (g) An Elected Member shall not attend staff meetings, including union meetings, unless specifically authorised by Council resolution.
- (h) Elected Members must not request staff to undertake work for the Elected Member, or any other person.
- (i) 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.
- (j) 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 unless they have been denied this access.
- (k) 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 unless they have been denied this access.
- (l) 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.

The following interactions are inappropriate under this policy:

- (a) Elected Members approaching staff, other than the CEO or senior staff, for information on sensitive or controversial matters.
- (b) Members of staff approaching Elected Members directly on staffing or political issues.
- (c) Elected Members approaching staff, other than the CEO or senior staff, outside the Council building or outside hours of work to discuss Council business.
- (d) Staff being asked to answer questions or provide documents to Elected Members who are overbearing or threatening.
- (e) Elected Members directing or pressuring staff in the performance of their work, or recommendations they should make.
- (f) 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.
- (g) Elected Members approaching staff to undertake works including the preparation of reports and/or letters.
- (h) Elected Members attending staff meetings, including union meetings, without having obtained the authorisation of Council.

## 4.6 Breaches of this Policy

### 4.6.1 Reporting

- (a) All occasions of an Elected Member or staff member not complying with this policy should be reported immediately to the Chief Executive Officer.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

### 4.6.2 Sanctions

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

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

(h) Prosecute any breach of the law.

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

- (a) Counselling the staff member,
- (b) Instituting Council disciplinary proceedings, or
- (c) Dismissal.

## 5 ASSOCIATED POLICIES/DOCUMENTS

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Elected Members Code of Conduct Policy

Declared Conflict of Interest

Breach of Code of Conduct Policy

Elected Members General Policy & Procedure

External Complaints Policy

Complaint Against the CEO Policy

## 6 REFERENCES AND RELATED LEGISLATION

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*Local Government Act 2019*

### Revision History

Version	Approval date	Details of change	Responsible officer
1	February 2012	Created and adopted	CEO
2	2/12/2024	Transferred to new policy template and administrative amendments	CEO
3			