
ELECTED MEMBERS POLICIES

Communications Protocol



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Relevant Delegation:	Not Applicable
Adoption Details:	28 November 2023
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PREAMBLE:

The Shire of York is a local government established under the *Local Government Act 1995* (the Act). Like all local governments in Western Australia, it is comprised of two parts: a Council which is made up of Councillors including the President and Deputy President; and an Administration which is made up of the Chief Executive Officer (CEO) and Officers. The respective roles of each of these groups is enshrined in legislation.

Both the Council and the Administration are required to meet the legislative role of the local government, which is to provide for the good government of persons in its district. To deliver on good governance, the Council and the Administration also require a common purpose, a common understanding of their unique and important roles, respect of, and recognition of their value.

To deliver good government, a partnership between Council and the Administration is required. This Communication Protocol documents the commitment of Council and the Administration for a partnership and the framework for communications between Council and the Administration that recognises the contribution made by each entity and sets out accepted behaviours in accordance with legislation.

COMMITMENT:

The Council and its Councillors and the Administration and its Officers of the Shire of York express their commitment to work in partnership to deliver good government for the district and recognise the unique and essential contribution that each makes.

The Council and its Councillors and the Administration and its Officers of the Shire of York agree to abide by this Communication Protocol as a policy of the local government.

THE ROLE OF COUNCIL:

Section 2.7 of the Act sets out the role of Council:

“2.7. Role of council

- (1) The council —*
 - (a) governs the local government’s affairs; and*
 - (b) is responsible for the performance of the local government’s functions.*
 - (2) Without limiting subsection (1), the council is to —*
 - (a) oversee the allocation of the local government’s finances and resources; and*
 - (b) determine the local government’s policies.”*
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THE ROLE OF THE PRESIDENT:

Section 2.8 of the Act sets out the role of the President:

“2.8. Role of mayor or president

(1) *The mayor or president —*

- (a) presides at meetings in accordance with this Act; and*
- (b) provides leadership and guidance to the community in the district; and*
- (c) carries out civic and ceremonial duties on behalf of the local government; and*
- (d) speaks on behalf of the local government; and*
- (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- (f) liaises with the CEO on the local government’s affairs and the performance of its functions.*

(2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.”*

THE ROLE OF THE DEPUTY PRESIDENT:

Section 2.9 of the Act sets out the role of the Deputy President:

“2.9. Role of deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.”

THE ROLE OF COUNCILLORS:

Section 2.10 of the Act sets out the role of Councillors:

“2.10. Role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district; and*
- (b) provides leadership and guidance to the community in the district; and*
- (c) facilitates communication between the community and the council; and*
- (d) participates in the local government’s decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to a councillor by this Act or any other written law.”*

THE ROLE OF CHIEF EXECUTIVE OFFICER AND OFFICERS:

Section 5.41 of the Act sets out the role (functions) of the CEO (to whom Officers act through):

“5.41. Functions of CEO

The CEO’s functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and*
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and*
- (c) cause council decisions to be implemented; and*
- (d) manage the day to day operations of the local government; and*
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions; and*
- (f) speak on behalf of the local government if the mayor or president agrees; and*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.”*

OVERARCHING PRINCIPLES:

1. Excluding matters such as integrity matters, development of Alternative Motions (in the first instance), development of Notices of Motions (in the first instance), personally sensitive information and individual training, communication that goes to one Councillor is sent to all Councillors.
 2. Notwithstanding point 1, in accordance with Section 2.8 of the Act, the role of the President includes liaising with the CEO on the local government’s affairs and the performance of its functions which requires heightened communication to achieve.
 3. In accordance with Section 2.8(1)(d) of the Act, both the Administration and Councillors acknowledge only the President or CEO may speak on behalf of the Shire as the official spokesperson on Council decision.
 4. Councillors are leaders in the community and their conduct can impact positively and negatively the reputation of the Shire.
 5. The Administration has respect for the Office of Councillor and values the contribution that Councillors make.
 6. Both the Administration and Councillors acknowledge the separation of powers enshrined in legislation.
 7. Both the Administration and Councillors recognise the importance of timely communication and that the provision of accurate information takes time.
 8. Both the Administration and Councillors recognise the importance of professionalism and respect in communication.
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MEDIA RELATIONS:

In accordance with Section 2.8(1)(d) of the Act, only the President may speak on behalf of the Shire as the official spokesperson on Council decisions. In accordance with Section 5.41(f) of the Act, the CEO is authorised to speak on behalf of the local government if the President agrees.

A Councillor who wishes to make or has been approached by the media to make a “personal statement” relating to a Council decision, including the use of a Councillor’s portrait photograph, must receive prior authorisation from the President unless it has been expressly authorised by a Council decision.

All media enquiries, requests for interviews or statements received by Councillors are to be referred to the CEO in the first instance, who will advise the most appropriate response and/or action.

Councillors have a legal duty of fidelity to act in the best interests of Council and the Shire and must not make public statements that are critical of a Council decision or cause detriment to the Shire or Officers.

To streamline the application of this policy in dealing with media enquiries and requests, it is acknowledged and agreed that the CEO will liaise with the media outlet(s) and provide comment and undertake interviews on behalf of the Shire in the first instance where required, and will inform Council of the outcome.

CUSTOMER (ACTION) REQUESTS:

Customer Service forms part of the day-to-day operations of the local government under Section 5.41 of the Act.

The Shire’s Report It system, available via the Shire’s website, provides a means for customers to request and report issues associated with the extensive services provided by the Shire to the community. The Report It system is linked to the Shire’s Records Management system to ensure efficient, effective and timely service delivery.

As community leaders and the public face of the local government, Councillors are often a point of contact for members of the public.

Members of the public will often reach out to Councillors with issues and requests for services relating to advancing planning or building matters, maintenance of parks and gardens, road works or waste collection.

While Councillors have a role representing the collective interests of electors, ratepayers and residents of the district, acting on behalf of individual customers can put Councillors in a difficult position.

Customer Service forms part of the Administration’s functions under Section 5.41 and unavoidably a request from a Councillor can be perceived by the Administration as a direction that must be acted on as a priority and accordingly result in an advantage to the customer.

When approached by members of the community, Councillors should direct the customer to the Report It system available on the Shire’s website. For customers who do not have access to the website, they can contact the Administration by phone, email or face-to-face to report any issues. This approach will assist Councillors meet the requirements of Regulations 18, 19 and 20 of the *Local Government (Model Code of Conduct) Regulations 2021*.

A model response that Councillors may wish to use when contacted by members of the public directly is below:

"Thank you for query regarding XXXX. The best way to action your issue is to contact the Shire through the Report It system. Alternatively, you can contact the Shire Administration via phone (9641 0500) or email (records@york.wa.gov.au). This will enable you to track progress on your request. A response will be provided by the Shire in accordance with the Shire's Customer Service Charter. If you do not receive a response to your satisfaction, please follow up with me."

If a customer is not satisfied with the Shire's services, a Councillor may wish to:

1. liaise with the Shire President who has the authority under Section 2.8 of the Act to liaise with the CEO on the local government's affairs and the performance of its functions; and/or
2. advise the customer to contact the Ombudsman.

To protect Councillors, Customer Requests received from Councillors on behalf of third parties will be treated like any other request received in the Report It system. Councillors will not receive any preferential treatment in this regard because such an action would be in conflict with the Shire's conflict of interest procedures and Code of Conduct.

Requests for action by Councillors on behalf of third parties will not be actioned by the Council and Executive Support Officer (CESO).

Councillors are community members and customers too and Customer Requests received from Councillors will be managed in accordance with the Department of Local Government, Industry Regulation and Safety's Conflict of Interest procedure.

The Shire has adopted a Customer Service Charter which describes the Shire's commitment to customer service and achieving efficient and effective delivery of services to the community. The Shire has also adopted Council Policy G5 – Comprehensive Complaints Response which describes the Shire's approach to managing complaints related to service provision.

RESIDENT COMPLAINTS:

Resident complaints forwarded by Councillors will contain the resident's contact details and Report It reference number(s) or some details of the resident's initial contact with the Administration.

Resident complaints will then be dealt with in accordance with Council Policy G5 – Comprehensive Complaints Response.

INFORMATION REQUESTS:

Effective communication between Councillors and the Administration is critical to the success of the entire organisation. Both Councillors and the Administration have a responsibility to communicate effectively.

Under Section 5.92 of the Act, Councillors may request any information held by the local government that is relevant to the performance by the person of any of his or her functions under the Act or under any other written law. A Councillor's functions under Section 2.10 of the Act are to:

1. *"Represent the interests of electors, ratepayers and residents of the district*
 2. *Provide leadership and guidance to the community in the district*
 3. *Facilitate communication between the community and the council*
 4. *Participate in the local government's decision-making processes at council and committee meetings*
 5. *Perform such other functions as are given to a councillor by this Act or any other written law."*
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In making requests for information under Section 5.92 of the Act, a Councillor may be asked to specify why the information is relevant to the performance of their duties. This approach will help ensure that Councillors do not breach Section 5.93 of the Act that provides that a Council Member must not make improper use of information acquired in the course of their duties to:

1. *“Gain directly or indirectly an advantage for the person or any other person; or*
2. *Cause detriment to the local government or any other person.”*

Such a breach of Section 5.93 constitutes serious misconduct under the *Corruption, Crime and Misconduct Act 2003* and can be investigated by the Corruption and Crime Commission.

To promote shared expectations, the table below summarises categories of communication typically initiated by Councillors and guidance on the timeframe for responses.

Category	Timeframe for Response	Examples	Most appropriate communication channel
Councillor support	Acknowledgement within 2 business day Initial response within 10 business days with further responses provided as required	Councillor training requests Fees and allowances IT assistance Resident complaints	Email to CEO with CEO cc'd in Telephone to CEO or CEO
Decision making	Acknowledgement within 1 business days Response according to meeting timeframes (NOM: in line with Standing Orders, AM: best practice suggests 24 hours notice)	Notices of Motion (NOM) Alternative Motion (AM)	NOM Email to CEO with CEO cc'd in AM Email to CEO and Executive with CEO cc'd in
Decisions involving changes in service delivery	Shire President / CEO meetings are held weekly	Increase/decrease service levels Requesting additional services and/or facilities	Shire President to CEO Notice of Motion

The following table summarises categories of communication typically initiated by Officers where a response is required.

Category	Timeframe for Response	Examples	Most appropriate communication channel
Statutory information requests	Within statutory limits specified	Annual and Primary Returns Related Party Disclosures	Email to Councillors

		Training Register	
General	Within agreed timeline specified	Miscellaneous requests for feedback and information (ie Councillor contact details, arranging meeting times, RSVPs to events and functions, responses to surveys, requesting feedback on documentation)	Email to Councillors

DISPUTE RESOLUTION

If the CEO's final response to a request for information includes a refusal to provide some or all of the information the subject of the request, the Councillor(s) may notify the CEO in writing that there is a dispute regarding the final response.

A dispute regarding the final response to a request for information must be discussed at a meeting between the Shire President, the CEO and the Councillor(s).

If the dispute is not resolved at the meeting —

- a. the Councillor(s) may refer the dispute to Council; and
- b. Council may determine the dispute.

Council's determination of the dispute —

- a. may override a decision made by the CEO; and
- b. is final.

WEEKENDS AND AFTER HOURS:

Officers are employees who are compensated for their time with a salary. Achieving a productive workplace requires respecting the boundaries between work and non-work periods. In general, responses to information requests from Councillors will only occur during normal work hours.

Councillors have responsibilities and commitments outside their role as a Councillor. While it is impossible to accommodate all individual Councillors and their circumstances, Officers recognise the limitations on the availability of Councillors and will generally schedule events and meetings on a Tuesday which by convention is the day where Council business occurs.

COMMUNICATION TO AND FROM COUNCILLORS AND OFFICERS:

To ensure separation of powers and in accordance with the different roles and responsibilities set out in legislation, communication to and from Councillors and Officers is regulated by this protocol.

The primary communication points for Councillors are:

1. CEO and Executive Managers
2. CESO

Where matters relate to the functions of a Directorate, communication can occur between a Councillor and the relevant Executive, on the condition that the CEO is cc'd into all communications.

Where matters relate to integrity and conduct, communication is to occur between a Councillor and the CEO.

Distribution of Council and Committee meeting agenda and minutes occurs via the CESO or an Officer acting on their behalf. Queries regarding the contents of agenda and minutes should be directed to the CESO or CEO.

To facilitate compilation of the Shire's Community Update in the York & Districts Community Matters newspaper, the Shire President can liaise with the Media & Engagement Officer in relation to the Shire President's column, with the CEO & CESO to be cc'd into all email communication.

All correspondence generated and received by Councillors that relate to the business of Council is subject to the *State Records Act 2000*, the *Freedom of Information Act 1992* and the Shire's Record Keeping Plan, and as such must be retained within the Shire's corporate recordkeeping system.

WEEKLY UPDATE:

The CEO issues a "Weekly Update" newsletter to Councillors once a week on a Friday. This newsletter is collated by the CESO and Executive Managers from various internal sources on activities from the previous week. The purpose of the newsletter is to provide Councillors with Administration information that they may be asked about by members of the public and provides a mechanism for the Administration to communicate information to Councillors informally and regularly.

DIARIES:

All Councillors have access to an electronic diary through Outlook. This is the official diary in the performance of their duties and all invitations are sent through Outlook.

All Shire related calendar activities will be updated and managed by the CESO who will issue invites and update calendars by sending invites to the relevant Councillors. A decline to a meeting invite indicates that a member will be an apology for the meeting or event.

External agencies may send invitations directly to a Councillor for events/meetings that require attendance in an official capacity.

Shire calendars should include only Shire related activities in which Councillors are attending in an official capacity including:

1. Committees of Council
2. Council Advisory Groups
3. External groups of which a Councillor is a delegated member (ie WALGA Zone or AROC)
4. Shire Events

As a public record subject to the *State Records Act 2000*, the *Freedom of Information Act 1992* and the Shire's Record Keeping Plan, Councillor electronic diaries should only be used for recording official business.

MAINTAINING CONFIDENTIALITY/EMBARGOED INFORMATION:

Councillors must not promote Shire information to the community that has not already been released or published, or until such time as the Shire President, as spokesperson for the Shire, has had an opportunity to speak.

The CEO, or representative, will advise verbally, or in writing if appropriate, where information is deemed to be confidential in nature or embargoed. Such documents will be clearly marked 'confidential' or embargoed.

Information does not need to be marked confidential for its release to constitute a gain for another person.

MEETINGS:

RECEIPT OF NOTICE PAPER

In accordance with Regulation 14 of the *Local Government (Administration) Regulations 1996* Councillors will receive the notice paper and agenda relating to any Council or Committee meeting from the time that these documents are available for inspection by members of the public. The following conventions shall apply:

1. All Councillors will receive electronic versions of Council and Committee agendas and all attachments. In certain circumstances hard copies can be provided (ie excel spreadsheets etc)

Where practicable, the agenda for Ordinary Council Meetings will be published 10 days prior to the Council meeting (that is Friday the week before Agenda Briefing).

Council and the Administration recognise the importance of accurate and timely advice contained in the agenda and that on occasion, individual agenda items may need to be published or updated following publication of the agenda. This shall occur using either a Late Item or Addendum to the agenda with the associated report being published on the Shire's website with the agenda when available.

In accordance with Regulation 6 of the *Local Government (Model Code of Conduct) Regulations 2021* Councillors should ensure they read all papers prior to the meeting.

ALTERNATIVE MOTIONS/AMENDMENTS

Councillors wishing to propose an Alternative Motion or Amendment to the Officer's recommendation are encouraged to first consult with the CEO. This is to ensure the consequences of the Alternative Motion/Amendment are considered.

Councillors are encouraged to distribute Alternative Motions/Amendments prior to the meeting to Councillors, the CEO, Executive and CESO. Alternative Motions/Amendments that are circulated prior to 2:00pm on the day of the meeting will be printed and provided to Councillors at their Chamber desk. Officers will not distribute Alternate Motions as it could be construed as being a revision to the Officer's recommendation.

INFORMATION REGARDING AGENDA REPORTS

Under Section 5.41 of the Act, the functions of the CEO include ensuring that advice and information is available to the Council so that informed decisions can be made. The Agenda Briefing session provides an opportunity for Councillors to identify additional information requirements related to

agenda reports. Written responses to questions that are not answered at the Agenda Briefing will be provided to all Councillors.

Councillors seeking information on agenda reports can also request to meet with the CEO and/or relevant Executive.

PENALTIES:

Not applicable.

KEY TERMS/DEFINITIONS:

Not applicable.

Responsible Officer:	Chief Executive Officer
Contact Officer:	Council & Executive Support Officer
Relevant Legislation:	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i> <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Relevant Documents:	<i>Policy E1 – Code of Conduct for Councillors, Committee Members and Candidates</i> <i>Policy E4 – Council Delegates – Roles and Responsibilities</i> <i>Policy E9 – Attendance at Events – Elected Members and CEO</i> <i>Policy E10 – Provision of IT Equipment for Councillors</i> <i>Policy G9 – Reference or Working Groups</i> <i>Policy G10 – Public Question Time</i> <i>Policy G11 – Conduct of Council Agenda Briefings and Concept Forums</i> <i>Policy G12 – Social Media</i> <i>Customer Service Charter</i>

Review History:

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Adopted 28 November 2023	171123
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