

Policy

Councillor Access to Information and Interaction with Staff



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Related Policies	Code of Conduct
Related Documents	Model Councillor and Staff Interaction Policy (Office of Local Government)
<p>Note: Any reference to Legislation will be updated in this Policy as required. See website http://www.legislation.nsw.gov.au/ for current Acts, Regulations and Environmental Planning Instruments.</p>	

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1. Purpose

The purpose of this *Councillor Access to Information and Interaction with Staff Policy* ("this Policy") is to:

- (a) Establish positive, effective and professional working relationships between Councillors and Council staff defined by mutual respect and courtesy,
- (b) Enable Councillors and Council staff to work together appropriately and effectively to support each other in their respective roles,
- (c) Ensure that Councillors receive advice in an orderly, courteous and appropriate manner to assist them in the performance of their civic duties,
- (d) Ensure Councillors have adequate access to information to exercise their statutory roles,
- (e) Provide direction on, and guide Councillor interactions with, Council staff for both obtaining information and in general situations,
- (f) Maintain transparent decision making and good governance arrangements,
- (g) Ensure the reputation of Council is enhanced by Councillors and Council staff interacting consistently, professionally and positively in their day-to-day duties, and
- (h) Provide a clear and consistent framework through which breaches of the Policy will be managed in accordance with the Code of Conduct.

2. Commencement

This Policy is effective from date of adoption by Council resolution, and shall remain in force until repealed by resolution of Council.

3. Scope and Application

This Policy applies:

- (a) To all Councillors and Council staff,
- (b) To all interactions between Councillors and Council staff, whether face-to-face, online (including social media and virtual meeting platforms), by phone, text message or in writing, and
- (c) Whenever interactions between Councillors and Council staff occur, including inside or outside of work hours, and at both Council and non-Council venues and events.

This Policy does not confer any delegated authority upon any person. All delegations to Council staff are made by Council's General Manager, consistent with section 378 of the *Local Government Act 1993* ("the Local Government Act").

The Code of Conduct provides that Council Officials must not conduct themselves in a manner that is contrary to Council's policies. Accordingly, a breach of this Policy will be a breach of the Code of Conduct.

4. Policy Statement

4.1. Principles, Roles and Responsibilities

- 4.1.1. Several factors contribute to a good relationship between Councillors and Council staff. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.
- 4.1.2. The Council's governing body and its administration (being staff within the organisation) must have a clear and sophisticated understanding of their

different roles, and the fact that these operate within a hierarchy. The administration is accountable to the General Manager, who in turn, is accountable to the Council's governing body.

- 4.1.3. Section 232 of the *Local Government Act 1993* states that the role of a Councillor is as follows:
- (a) to be an active and contributing member of the governing body,
 - (b) to make considered and well-informed decisions as a member of the governing body,
 - (c) to participate in the development of the integrated planning and reporting framework,
 - (d) to represent the collective interests of residents, ratepayers and the local community,
 - (e) to facilitate communication between the local community and the governing body,
 - (f) to uphold and represent accurately the policies and decisions of the governing body, and
 - (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor.
- 4.1.4. The administration's role is to advise the governing body, implement Council's decisions and to oversee service delivery.
- 4.1.5. It is beneficial if the administration recognises the complex political environments in which elected members operate and acknowledge that they work within a system that is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on the very wide range of issues that Council operations cover.
- 4.1.6. Council commits to the following principles to guide interactions between Councillors and Council staff:

Principle	Achieved by
Equitable and consistent	Ensuring appropriate, consistent and equitable access to information for all Councillors within established service levels.
Considerate and respectful	Councillors and Council staff working supportively together in the interests of the whole community, based on mutual respect and consideration of their respective positions.
Ethical, open and transparent	Ensuring that interactions between Councillors and Council staff are ethical, open, transparent, honest and display the highest standards of professional conduct.
Fit for purpose	Ensuring that the provision of equipment and information to Councillors is done in a way that is suitable, practical and of an appropriate size, scale and cost for a client group of 10 people.

<p>Accountable and measurable</p>	<p>Providing support to Councillors in the performance of their role in a way that can be measured, reviewed and improved based on qualitative and quantitative data.</p>
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- 4.1.7. Councillors are members of the Council’s governing body, which is responsible for directing and controlling the affairs of the Council in accordance with the Local Government Act. Councillors need to accept that:
 - (a) Responses to requests for information from Councillors may take time and consultation to prepare and be approved prior to responding,
 - (b) Council staff are not accountable to them individually,
 - (c) They must not direct Council staff except by giving appropriate direction to the General Manager by way of a Council or Committee resolution, or by the Mayor exercising their functions under section 226 of the Local Government Act,
 - (d) They must not, in any public or private forum, direct or influence, or attempt to direct or influence, a member of Council staff in the exercise of their functions,
 - (e) They must not contact a member of Council staff on Council-related business unless in accordance with this Policy, and
 - (f) They must not use their position to attempt to receive preferential treatment for themselves or others.

- 4.1.8. The General Manager is responsible for the efficient and effective day-to-day operation of the Council and for ensuring that the lawful decisions of the Council are implemented without undue delay.

- 4.1.9. Council staff need to understand:
 - (a) They are not accountable to individual Councillors and do not take direction from them. They are accountable to the General Manager, who is in turn accountable to the Council’s governing body,
 - (b) They should not provide advice to Councillors unless it has been approved by the General Manager or a staff member with a delegation to approve advice to Councillors,
 - (c) They must carry out reasonable and lawful directions given by any person having the authority to give such directions in an efficient and effective manner,
 - (d) They must ensure that participation in political activities outside the service of the Council does not interfere with the performance of their official duties, and
 - (e) They must provide full and timely information to Councillors sufficient to enable them to exercise their civic duties in accordance with this Policy.

4.2. Access to Information

- 4.2.1. Councillors have a right to request information provided it is relevant to the exercise of their civic duties. This right does not extend to matters about which a Councillor is merely curious. As such, Councillors can access information which:
 - (a) Relates to a matter currently before the Council for determination (Note, however, that the provision of access to legal advice is dealt with in accordance with [Section 4.6](#) of this Policy),

- (b) Relates to a matter the Councillor is proposing to bring before the Council for consideration via a Notice of Motion pursuant to Council's Code of Meeting Practice (Note, however, that the provision of access to legal advice is dealt with in accordance with Section 4.6 of this Policy), or
 - (c) Has been identified as open access information under Schedule 1 of the *Government Information (Public Access) Regulation 2009*.
- 4.2.2. Councillors do not have a right to request information about matters that they are prevented from participating in decision-making on because of a conflict of interest, unless the information is otherwise publicly available.
- 4.2.3. Councillors must, to the best of their knowledge, be specific about what information they are requesting, and make their requests respectfully. Where a Councillor's request lacks specificity, the General Manager or Council staff member authorised to manage the matter is entitled to ask the Councillor to clarify their request and the reason(s) why they are seeking the information.
- 4.2.4. Council staff must make every reasonable effort to assist Councillors with their requests and do so in a respectful manner.
- 4.2.5. The General Manager or the Council staff member authorised to manage a Councillor request will provide a response within two (2) ordinary days. Where a response cannot be provided within that timeframe, the Councillor will be advised, and the information will be provided as soon as practicable.
- 4.2.6. Councillors are required to treat all information provided by Council staff appropriately and to observe any confidentiality requirements. Council staff will inform Councillors of any confidentiality requirements for information they provide so Councillors can handle the information appropriately. Where a Councillor is unsure of confidentiality requirements, they should contact the General Manager, or the Council staff member authorised to manage their request.
- 4.2.7. The General Manager may refuse access to information requested by a Councillor if:
 - (a) The information is not necessary for the performance of the Councillor's civic duties, or
 - (b) If responding to the request would, in the General Manager's opinion, result in an unreasonable diversion of staff time and resources, or
 - (c) The Councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it, or
 - (d) The General Manager is prevented by law from disclosing the information.
- 4.2.8. Where the General Manager refuses to provide information requested by a Councillor, they must act reasonably. The General Manager must advise a Councillor in writing of their reasons for refusing access to the information requested.
- 4.2.9. Where a Councillor's request for information is refused by the General Manager on the grounds referred to under clause 4.2.7 (a) or (b), the Councillor may instead request the information through a resolution of the Council by way of a Notice of Motion. This clause does not apply where the General Manager refuses a Councillor's request for information under clause 4.2.7 (c) or (d).
- 4.2.10. Nothing in clauses 4.2.7, 4.2.8 and 4.2.9 prevents a Councillor from requesting the information in accordance with the *Government Information (Public Access) Act 2009*.

- 4.2.11. Where a Councillor persistently makes requests for information which, in the General Manager's opinion, result in a significant and unreasonable diversion of staff time and resources the Council may, on the advice of the General Manager, resolve to limit the number of requests the Councillor may make.
- 4.2.12. Councillor requests are state records and must be managed in accordance with the *State Records Act 1998*. As such, Council staff handling Councillor requests are required to capture appropriate records in Council's Electronic Document and Records Management System and document their interactions with Councillors, including making records of telephone calls and email exchanges, in accordance with the applicable legislative requirements.

4.3. Access to and Interaction with Council Staff

- 4.3.1. Councillors may directly contact members of Council staff that are listed in [Schedule 2](#) of this Policy. The General Manager may amend this list at any time and will advise Councillors promptly of any such changes.
- 4.3.2. Councillors can contact Council staff listed in [Schedule 2](#) about matters that relate to the staff member's area of responsibility.
- 4.3.3. Councillors should as far as practicable, only contact Council staff during normal business hours.
- 4.3.4. If Councillors would like to contact a member of Council staff not listed in [Schedule 2](#), they must receive permission from the General Manager.
- 4.3.5. If a Councillor is unsure which authorised Council staff member can help with their enquiry, they can contact the General Manager or the Executive and Councillor Support Officer who will provide advice about which authorised Council staff member to contact.
- 4.3.6. The General Manager or a member of the Council's Executive Leadership Team may direct any Council staff member to contact Councillors to provide specific information or clarification relating to a specific matter.
- 4.3.7. A Councillor or member of Council staff must not take advantage of their official position to improperly influence other Councillors or members of Council staff in the performance of their civic or professional duties for the purposes of securing a private benefit for themselves or for another person. Such conduct should be immediately reported to the General Manager or Mayor in the first instance, or alternatively to the Office of Local Government, NSW Ombudsman, or the NSW Independent Commission Against Corruption.

4.4. Access to and Interaction with Audit

- 4.4.1. Consistent with clause 7.2 of the Code of Conduct, Councillors may contact Council's external Auditor or the Chair of the Audit, Risk and Improvement Committee to provide information reasonably necessary for the external Auditor or the Audit, Risk and Improvement Committee to perform their respective functions.

4.5. Access to Third Party Advice

- 4.5.1. In relation to third party advice relevant to a matter currently before the Council for determinations, the following principles apply:
 - (a) A copy of such advice obtained by Council in relation to the subject matter shall be provided to all Councillors no less than three (3) business days prior to the meeting at which the matter is to be determined to allow Councillors to read and understand the advice,

- (b) Councillors acknowledge that such advice may be confidential and public disclosure may be detrimental to Council's interests. Accordingly, where the advice is provided to Councillors on a confidential basis; Councillors must not disclose the advice to any other person.
- (c) Where such advice relates to matters which are to be determined under delegated authority or do not otherwise require referral to Council for determination, then the requirements of this clause shall not apply.

4.6. Access to Legal Advice

- 4.6.1. Legal advice attracts legal privilege. Legal privilege may be waived or lost by inadvertent or actual disclosure of the advice or the existence of the advice to a third party. Communications between Council and its external legal services providers must not be disclosed to anyone outside Council.
- 4.6.2. Generally, Council is entitled to claim legal professional privilege for any communications between legal services providers and members of Council staff, provided those communications are for the dominant purpose of seeking or receiving legal advice or services, or where those communications relate to litigation that has already commenced or is anticipated.
- 4.6.3. Councillors will be given access to legal advice relevant to a matter before Council upon which a decision is to be made, but may not retain written copies of such advice. All copies of advice circulated during a briefing session or Council meeting must be returned to the General Manager, the Public Officer, or the General Manager's delegate.

4.7. Access to Council Buildings

- 4.7.1. Councillors are entitled to have access to the Council Chamber, Committee Room, Councillors' Room, Mayor's Office (subject to availability), and public areas of Council's buildings during normal business hours for meetings. Councillors needing access to these facilities at other times must obtain approval from the General Manager.
- 4.7.2. Councillors must not enter staff-only areas of Council buildings without the approval of the General Manager.

4.8. Appropriate and Inappropriate Interactions

- 4.8.1. Examples of appropriate interactions between Councillors and Council staff include, but are not limited to, the following:
 - (a) Councillors and Council staff are courteous and display a positive and professional attitude towards one another,
 - (b) Council staff ensure that information necessary for Councillors to exercise their civic duties is made equally available to all Councillors, in accordance with this Policy and any other relevant Council policies
 - (c) Council staff record the advice they give to Councillors in the same way they would if it was provided to members of the public,
 - (d) Council staff, including Council's Executive Leadership Team members, document Councillor requests via the Councillor requests system,
 - (e) Council meetings and Councillor briefings are used to establish positive working relationships and help Councillors to gain an understanding of the complex issues related to their civic duties,
 - (f) Councillors and Council staff feel supported when seeking and providing clarification about Council-related business,

- (g) Councillors forward requests through the Councillor requests system and staff respond in accordance with the timeframes stipulated in this Policy.
- 4.8.2. Examples of inappropriate interactions between Councillors and staff include, but are not limited to, the following:
- (a) Councillors and Council staff conducting themselves in a manner which:
 - i. is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety, or
 - ii. constitutes harassment and/or bullying within the meaning of the Code of Conduct, or is unlawfully discriminatory.
 - (b) Councillors approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters.
 - (c) Staff approaching Councillors to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters
 - (d) Subject to clause 4.2.7, Council staff refusing to give information that is available to other Councillors to a particular Councillor,
 - (e) Councillors who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council,
 - (f) Councillors being overbearing or threatening to Council staff,
 - (g) Council staff being overbearing or threatening to Councillors,
 - (h) Councillors making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of the Code of Conduct in public forums, including social media,
 - (i) Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make, or
 - (j) Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- 4.8.3. Where a Councillor engages in conduct that, in the opinion of the General Manager, puts the health, safety or welfare of Council staff at risk, the General Manager may restrict the Councillor's access to Council staff.
- 4.8.4. Any concerns relating to the conduct of staff under this Policy should be raised with the General Manager.

4.9. Complaints

- 4.9.1. Complaints about a breach of this policy should be made to the General Manager (if the complaint is about a Councillor or member of Council staff), or the Mayor (if the complaint is about the General Manager).
- 4.9.2. Clause 4.9.1 does not operate to prevent matters being reported to OLG, the NSW Ombudsman, the NSW Independent Commission Against Corruption or any other external agency.

5. Review

As part of Council's commitment to good governance and continuous improvement, this Policy must be reviewed and re-adopted by Council not less than once every four years or as Council otherwise determines in line with legislative requirements and policy changes.

6. Schedules

Schedule 1 - Definitions

In this Policy, the following terms shall be interpreted as having the following meanings:

Term	Definition
Civic duties	means those duties that Councillors are required to undertake to fulfil their legislated role and responsibilities, as detailed in Schedule 2.
Council	means Parkes Shire Council.
Council staff	means all employees, contractors, consultants and volunteers engaged by Parkes Shire Council.
Councillor Support Requests	means requests for administrative and executive support, including requests for ICT and other support from the Council administration.
Councillors	means the elected representatives who, pursuant to section 222 of the <i>Local Government Act 1993</i> , comprise of the governing body of Parkes Shire Council.
General Manager	means the General Manager of Parkes Shire Council appointed under section 334 of the <i>Local Government Act 1993</i> .
Legal advice	means advice or formal opinion prepared by a legal services provider.
Legal services provider	means a provider of legal services external to Council, including solicitors, barristers and legal firms.
Open access information	means information listed in Schedule 1 of the <i>Government Information (Public Access) Regulation 2009</i> that a member of the public could access by application under Council's Agency Information Guide.
Operational advice	means requests regarding routine services provided by Council.
Ordinary day	means the reckoning of time as set out in section 36 of the <i>Interpretation Act 1987</i> , which excludes a Saturday, a Sunday, a public holiday or a bank holiday being included in the calculation of the period of a day or number of days in relation to notice to be given under the provisions the Code of Conduct.
Public Officer	means the member of Council staff designated by the General Manager as the Public Officer of Parkes Shire Council pursuant to section 342 of the <i>Local Government Act 1993</i> .
Strategic advice	means requests regarding matters that relate to Council's Integrated Planning and Reporting framework, long-term planning, policy direction and operational performance.

Response	means an answer to a request or a proposed course of action (not an acknowledgment) by email, facsimile or letter.
Third party advice	means written advice obtained by Council from a third party, excluding legal services providers. Such advice includes, but is not limited to, consultants' reports and advice from Government agencies

Schedule 2 - Authorised Staff Contacts for Councillors

1. Clause 8.1 of this Policy provides that Councillors may directly contact members of Council staff that are listed in *Table A*, below. The General Manager may amend this list at any time.
2. Councillors can contact Council staff listed in *Table A*, below, about matters that relate to the Council staff member's area of responsibility.
3. Councillors should as far as practicable, only contact Council staff during normal business hours.
4. If Councillors would like to contact a member of Council staff not listed in *Table A*, below, they must receive permission from the General Manager or their delegate.
5. If a Councillor is unsure which authorised Council staff member can help with their enquiry, they can contact the General Manager or the Executive and Councillor Support Officer who will provide advice about which authorised Council staff member to contact.
6. In some instances, the General Manager or a member of the Council's Executive Leadership Team may direct a Council staff member to contact Councillors to provide specific information or clarification relating to a specific matter.

Table A: Council Staff Contacts

Position	Incumbent
General Manager	Kent Boyd PSM
Director Customer, Corporate Services and Economy (Public Officer)	Cian Middleton
Director Infrastructure and Sustainability	Andrew Francis
Director Operations	Ben Howard
Director Planning and Community Services	Brendan Hayes
Chief Financial Officer (Responsible Accounting Officer)	Jaco Barnard
Executive and Councillor Support Officer	Shona Henry

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Table B: Councillor Request Requirements

Request Type	From Whom Information is to be Requested	How Information is to be Requested	How Information is to be Provided	Restrictions to Information	Recordkeeping Requirements
Access to Documents	General Manager, Public Officer.	<p>It is the Councillor's choice whether a request is submitted in writing or made verbally.</p> <p>The General Manager and Public Officer are required to keep a file note of verbal requests when appropriate.</p>	<p>Inspection of original documents will only be permitted on the premises. Copies of original documents may be supplied upon request.</p> <p>Copies of publicly available documents will be permitted.</p> <p>Documents that are not publicly available can be inspected but not copied. The General Manager has overriding discretion.</p>	<p>There are no specific restrictions. However, the General Manager and the Public Officer have discretion to refuse a request on legitimate grounds.</p> <p>If access is refused, a Notice of Motion, the GIPA Act and the Agency Information Guide are the alternative forms of access</p>	The Council Officer must keep a record of all transactions pertaining to the request.
Operational or Strategic Advice	General Manager, Directors, Chief Financial Officer.	<p>It is the Councillor's choice whether a request is submitted in writing or made verbally.</p> <p>Council Officers are required to keep a file note of verbal requests when appropriate.</p>	The response will be provided verbally, memo or email. The timeframe for a response will be two (2) ordinary days.	<p>There are no specific restrictions. However the General Manager and Directors have discretion to refuse a request on legitimate grounds.</p> <p>If access is refused, a Notice of Motion or a</p>	The Council Officer must keep a record of all transactions pertaining to the request.

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				Question with Notice of Motion is the alternative forms of access.	
Councillor Support Requests	General Manager, Executive and Councillor Support Officer.	It is the Mayor or Councillor's choice whether their request is submitted in writing or made verbally. Council Officers are required to keep a file note of verbal requests when appropriate.	The timeframe for a response will be two (2) ordinary days.	The administrative assistance must be in accordance with the <i>Councillor Expenses and Facilities Policy</i> .	The general principle is to keep a record of all transactions. However, this is not required if it is only a routine matter.

Schedule 3 - Role and Responsibilities of Councillors**1. The Governing Body (section 222, *Local Government Act 1993*)**

The elected representatives, called "Councillors," comprise the governing body of the council.

2. Role of Governing Body (section 223, *Local Government Act 1993*)

The role of the governing body is as follows:

- (a) to direct and control the affairs of the council in accordance with this Act,
- (b) to provide effective civic leadership to the local community,
- (c) to ensure as far as possible the financial sustainability of the council,
- (d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,
- (e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,
- (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
- (g) to keep under review the performance of the council, including service delivery,
- (h) to make decisions necessary for the proper exercise of the council's regulatory functions,
- (i) to determine the process for appointment of the General Manager by the council and to monitor the General Manager's performance,
- (j) to determine the senior staff positions within the organisation structure of the council,
- (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,
- (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately

3. Role of the Mayor (section 226, *Local Government Act 1993*)

The role of the Mayor is as follows:

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,

- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the Mayoral office,
- (m) to represent the council on regional organisations and at intergovernmental forums at regional, State and Commonwealth level,
- (n) in consultation with the Councillors, to lead performance appraisals of the General Manager,
- (o) to exercise any other functions of the council that the council determines.

4. Role of a Councillor (section 232(1), *Local Government Act 1993*)

The role of a Councillor is as follows:

- (a) to be an active and contributing member of the governing body,
- (b) to make considered and well informed decisions as a member of the governing body,
- (c) to participate in the development of the Integrated Planning and Reporting framework,
- (d) to represent the collective interests of residents, ratepayers and the local community,
- (e) to facilitate communication between the local community and the governing body,
- (f) to uphold and represent accurately the policies and decisions of the governing body,
- (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor.