

# Policy for the Interface and Day to Day Oversight of the General Manager by the Mayor including Mayor's Roles and Responsibilities

## Scope

This policy governs the appropriate interface between the Mayor of the City of Ryde and the General Manager in keeping with the Director General's *Guidelines for the Appointment and Oversight of the General Manager* and other related policies and guidelines.

The relationship between the General Manager and the Mayor of the City of Ryde is a critical interface required to ensure that the Mayor's role in the day to day management of the General Manager is transparent and appropriately delegated by Council. Constructive professional relationships between the Mayor and the General Manager are essential to enable the effective executive management of the Council.

This policy also includes the Mayor's Roles and Responsibilities in accordance with the *Local Government Act*, relevant guidelines and Council Policies.

The purpose of this Policy is to provide, as far as practicable, a single source of information regarding the Interface between the Mayor and General Manager, as well as the Mayor's Roles and Responsibilities. As a result, there are a number of references to legislation, existing Council Policies and resolutions of Council.

## Role of the Mayor

Section 226 of the *Local Government Act* sets out the role of Mayor as follows:

- *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council*
- *to exercise such other functions of the council as the council determines*
- *to preside at meetings of the council*
- *to carry out the civic and ceremonial functions of the mayoral office.*

## Role of the Deputy Mayor

Section 231 of the *Local Government Act* describes the role of the Deputy Mayor as follows:

*The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*

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Owner: Customer Service and Governance	Accountability: Mayor and Councillor Support Service	Policy Number: CSG009
Trim Reference: D14/12411	Review: following Council election (every four years)	Adopted by Council - 11 February 2014

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## Functions of the General Manager

Section 335 of the *Local Government Act* sets out the functions of General Manager as follows:

- (1) *The general manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.*
- (2) *The general manager has the following particular functions:*
  - *to assist the council in connection with the development and implementation of the community strategic plan and the council's resourcing strategy, delivery program and operational plan and the preparation of its annual report and state of the environment report*
  - *the day to day management of the council*
  - *to exercise such of the functions of the council as are delegated by the council to the general manager*
  - *to appoint staff in accordance with an organisation structure and resources approved by the council*
  - *to direct and dismiss staff*
  - *to implement the council's equal employment opportunity management plan.*
- (3) *The general manager has such other functions as may be conferred or imposed on the general manager by or under this or any other Act.*

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## Purpose

The aim of the policy is to strengthen the executive management of the Council by detailing the relationship, the appropriate interface and the day to day oversight by the Mayor of the General Manager and aims to ensure that there is a clear understanding between the General Manager and the Mayor of the day. It will ensure that expectations and transparency of the interface between the Mayor and General Manager is consistently applied to strengthen and maintain a positive working relationship between both parties.

This document also aims to provide clarity and transparency regarding the role and responsibilities of the Mayor in accordance with Section 226 of *the Local Government Act* that is to "exercise such functions of the Council as the Council determines".

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## Guidelines / Procedures

This policy is drafted to ensure compliance with appropriate legislative requirements, existing Council policies and is supported by the attached Guidelines.

## References – Legislation and City of Ryde Policies

- The Local Government Act 1993 and Regulations
- Public Interest Disclosures Act 1994
- Anti-Corruption Safeguards and the NSW Planning System – ICAC 2012
- Division of Local Government – Guidelines for the Appointment and Oversight of General Managers (July 2011)
- City of Ryde Code of Conduct
- City of Ryde Code of Meeting Practice
- City of Ryde Media Policy
- City of Ryde Expenses Relating to The General Manager and Senior Staff Policy
- City of Ryde Corporate Credit Card Policy
- City of Ryde Gifts and Benefits Policy
- City of Ryde Public Interest Disclosures Internal Reporting Policy
- City of Ryde Policy on Ethical Lobbying
- City of Ryde Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy
- City of Ryde Guideline on the Interaction between Councillors and Staff

## Review Process and Endorsement

This Policy should be reviewed each term of Council and endorsed by the Council.

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# Guidelines for the Interface and Day to Day Oversight of the General Manager by the Mayor including Mayor's Roles and Responsibilities

## 1. The General Manager's Appointment

The Mayor will establish and chair a selection panel for the purpose of selecting the General Manager in accordance with the *Guidelines for the Appointment and Oversight of General Managers* (Division of Local Government, July 2011).

In 2009, the process for the appointment of a recruiter and subsequent selection of a General Manager provided for the participation of all Councillors.

## 2. Management of the General Manager's Performance including the Mayor's Responsibilities

The General Manager's performance management process will be conducted annually in accordance with the *Guidelines for the Appointment and Oversight of General Managers* (Division of Local Government, July 2011).

The Mayor will chair the Performance Review Panel and oversee the appointment of an external facilitator to assist with the process of performance appraisal and the development of performance plans.

The Division's Guidelines set out the following actions that are to be taken as part of this process. The Mayor, as chair of the Performance Review Panel, is responsible for these actions:

- Ensuring all Councillors not on the panel can contribute to the process by providing feedback to the Mayor on the General Manager's performance.
- Ensuring all Councillors are notified of relevant dates in the performance review cycle.
- Ensuring all Councillors are kept advised of the Panel's findings and recommendations.
- Reporting to Council in closed session the findings and recommendations of the Review Panel.

## 3. Audit of the General Manager's Accountabilities

If the Mayor is a member of the City of Ryde Audit and Risk Committee, the Mayor will participate in setting the priorities and the program of the audit of Council's operations, to ensure independent oversight of the risk and compliance environment of the General Manager's accountabilities.

The Mayor will also be briefed annually by Council's external auditors to ensure robust financial reporting is in place.

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## 4. The General Manager's Leave Applications

The Mayor will be the approval authority for all leave applications made by the General Manager in accordance with Council's Leave policies.

## 5. The General Manager's Expense Claims

The Mayor will be the approval authority for all expense claims relating to the General Manager's out-of-pocket expenses and use of Council's Corporate Credit Card in keeping with the General Manager's Terms of Engagement, Council's *Policy on Expenses Relating to the General Manager and Senior Staff*, and Council's *Corporate Credit Card Policy*.

## 6. The General Manager's Gifts and Benefits Claims

The Mayor will be the acknowledging authority for all Gifts and Benefits Disclosure Forms completed by the General Manager in keeping with the General Manager's Terms of Engagement, and Council's *Gifts and Benefits Policy*.

## 7. Training and Development – Applications by the General Manager

It is recognised that the General Manager is required to keep abreast of local government issues industry best practice and to keep his/her knowledge and skills relevant. To this end, the General Manager will attend industry seminars conferences and forums such as those provided by the Local Government Managers' Association, the Chief Officers' Group of Australasia, the Local Government NSW conference, and the National General Assembly of Local Government.

When deemed that attendance at an industry forum/conference is appropriate, the General Manager will seek the Mayor's approval to attend.

Should the General Manager seek to attend formal training relating to advancing his/her knowledge and skills and in accordance with Council's policy on Tertiary Education etc, the General Manager will seek the Mayor's approval to do so.

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## 8. Presiding at Council Meetings including the Mayor's Responsibilities

Under Section 226 of the Local Government Act, the Mayor presides at meetings of the Council.

### Setting the Agenda for Council or Committee Meetings

The Agenda must be set in accordance with Section 240 of the Local Government (General) Regulation, which provides that:

- (1) *The general manager must ensure that the agenda for a meeting of the council states:*
  - (a) *all matters to be dealt with arising out of the proceedings of former meetings of the council, and*
  - (b) *if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and*
  - (c) *subject to subclause (2), any business of which due notice has been given.*
- (2) *The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.*

Once the agenda has been set, the General Manager or his/her nominee may meet with the Mayor to discuss the matters on the agenda of either a Council or Committee meeting prior to the meeting being convened. To ensure that the independence of advice to the Council is maintained, the Mayor cannot direct the General Manager or his/her staff to either prepare or remove reports set on an existing or future agenda.

Clause 240 of the Regulation also stipulates that the General Manager must cause the agenda for a meeting of Council or a Committee of the Council to be prepared as soon as practicable before the meeting. This supplements the Local Government Act requirement (s367) that "the general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting."

Clause 240 of the Regulation also specifies that for meetings where the Mayor is the Chairperson, the Agenda is to include any matter or topic that the Mayor proposes at the time when the Agenda is prepared. This is to be done in accordance with Council's adopted Code of Meeting Practice.

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## Calling Extraordinary or Special Meetings

In accordance with Council's Code of Meeting Practice, the Mayor does not have the authority, in their own right, to call an Extraordinary or Special Council Meeting.

The Mayor, following a written request signed by at least two Councillors, must call an extraordinary Council meeting. The Mayor can be one of the two Councillors, but the Mayor cannot call extraordinary meetings by him or herself without having a written request with another Councillor's signature. The Mayor must then 'call' the meeting, which is to be held as soon as practical but within fourteen (14) days after the request is made (DLG Meeting Practice Note 1.1.2 and s.366 of the Local Government Act). "Notice of less than 3 days may be given of an extraordinary meeting called in an emergency." (s367(2) of the Local Government Act).

The General Manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting (s242 of the Regulation).

## **9. Conducting Meetings with Ministers and Members of Parliament**

The Mayor will from time to time have reason to meet with Ministers and Members of Parliament to discuss issues of importance to the City of Ryde and the implementation of its *Community Strategic Plan* and Council resolutions.

These meetings are to be included in the Councillors' Information Bulletin Calendar including who the meeting is with, and the topic to be discussed. Where practicable, Councillors are to be consulted in advance of the meeting to ensure all relevant information and issues are gathered.

As per Council's resolution of 22 November 2011, the General Manager and/or his/her nominee will accompany the Mayor to any meeting with a State Minister or Member of Parliament at which Council business will be discussed. In accordance with this resolution, "a report of the meeting is to be presented to Councillors through the Councillors' Information Bulletin, and if appropriate, through the Council business papers....the report is to include all matters raised, any advice or commitments given by either side and other relevant information to ensure that Council remains fully informed."

These actions will ensure appropriate briefings can be given relating to Council's policies, operational matters or strategic impacts relating to the discussions, and to ensure that the follow up of agreed actions at the meeting will take place.

## **10. Conducting Meetings with Constituents and those wishing to make representations to the Mayor**

It is acknowledged that the Mayor will meet with constituents relating to a range of matters and may request the presence of the General Manager. In some instances, the General Manager may delegate attendance to the relevant Group Manager or staff member.

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- *General Matters*

From time to time the Mayor will request that the General Manager attend meetings with constituents or other parties. Adequate notice (where practicable, no less than three working days) and background information will be given to the General Manager to ensure that the General Manager is able to prepare for the meeting in advance. Meetings will be held in the Mayoral suite during business hours and secretarial support will be provided for meetings that occur to ensure that records are kept detailing the agenda and minutes of the meeting.

- *Meetings relating to Complaints*

The Mayor may receive complaints about the level of service provided by the Council's staff. These complaints will be referred to the General Manager prior to any meeting between the complainant, the Mayor and the General Manager taking place. This will ensure that appropriate preparations can be made and will be dealt with in accordance with the Council's *Customer Feedback Policy*. Meetings will be convened as outlined above in General Matters.

Should the complaint relate to a development matter the procedure outlined below will be followed.

- *Matters relating to Proposed Development Matters (either Planning Proposals or proposed major Development Applications).*

No meetings will take place with any developer or their representative unless a detailed agenda item is prepared prior to the meeting. Council's *Ethical Lobbying Policy* will apply to meetings attended by those lobbying on behalf of their client. At such meetings the Group Manager Environment and Planning (or his/her nominee) will also be in attendance at the meetings. Meetings will be convened as outlined above in General Matters and will be minuted by the Mayor's secretary or an appropriate Planning staff member.

In accordance with Council's resolution of 27 September 2005, "*.. in the interest of transparency, all significant meetings held by the Mayor, or by the Mayor's nominee with parties participating or seeking to participate in development or other activities in the city of Ryde, (are to) be reported to all Councillors via the Councillors Bulletin papers on a fortnightly basis.*"

It is inappropriate for the Mayor to attempt to influence the independent advice of Planning staff on any planning proposal or development assessment report. No meetings will be held on matters where a development application assessment process is already underway, to ensure there can be no perception of inappropriate influence.

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## 11. Public Relations Management

The General Manager will ensure that the Mayor is provided with adequate resources to meet his/her requirements for public relations management. Public relations management relates to the provision of advice and preparation of:

- press releases
- issues management
- speeches
- Mayoral pieces in Council publications – for example the Annual Report.
- opinion pieces for journals etc.

In accordance with Council's *Media Policy*, both the Mayor and the General Manager can make comments to the media on policy matters. When doing so, the Mayor and General Manager will communicate with members of the press through Council's media advisor to ensure consistency of message. All articles and speeches etc relating to or quoting the Mayor will be approved by the Mayor prior to their release.

The General Manager will comment on administration issues in accordance with the *Media Policy*.

The General Manager will ensure that Council staff provide necessary public relations support for all non-political issues relating to Council's operations and the adopted resolutions of Council. Should the Mayor wish to make commentary that in the opinion of the General Manager is of a political nature and does not relate to matters of Council policy, business or resolution etc, Council's media staff will not be used to draft or place such statements.

## 12. Mayor's Responsibilities with respect to Council's Media Policy

In accordance with Council's *Media Policy* the Mayor and the General Manager are Council's official spokespersons on all matters. The Mayor may nominate another Councillor to speak on a particular matter.

Council's Media Officer is responsible for the coordinating media liaison and issuing press releases. All media enquiries should be directed to the Media Officer.

In addition:

1. Every Councillor has a right to express a private opinion on any issue, whether or not that opinion reflects Council's official position, but Councillors must carefully identify the role in which they speak or write.
2. Whenever Councillors publicly express their own opinions they must make it clear they are speaking for themselves, unless delegated by the Mayor, and not for Council, unless they are supporting a Council position.
3. When Councillors speak "for the Council" when delegated by the Mayor, they must express and support Council's entire policy on the issue at hand.

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### 13. Managing Complaints about the General Manager

All complaints about the General Manager's conduct will be referred to the Mayor and will be managed in accordance with Council's *Customer Feedback Policy*, Council's *Code of Conduct* and if necessary, the Public Interest Disclosures Act 1994 and Council's *Public Interest Disclosures Internal Reporting Policy*. The Mayor may seek the independent assistance of the Manager, Risk and Audit, external experts and Council's General Counsel should she/he so require, when undertaking investigations or seeking advice. The procurement of external experts will be managed by Council's Manager, Risk and Audit.

All Code of Conduct complaints relating to Councillors made by the General Manager will be made to the Mayor, and managed in accordance with Council's *Code of Conduct* and if necessary the Public Interest Disclosures Act 1994 and Council's *Public Interest Disclosures Internal Reporting Policy*.

Part 13 of the Policy sets out the Mayor's role with regard to Code of Conduct complaints while Part 14 sets out the Mayor's role with regard to Public Interest Disclosure reporting.

### 14. Mayor's Responsibilities with respect to Council's Code of Conduct

In accordance with Council's *Code of Conduct* the Mayor is responsible for receiving written Code of Conduct complaints about the General Manager. Where the complaint cannot be made in writing the Mayor is to confirm the complaint in writing as soon as possible after the receipt of the complaint.

The Mayor must give consideration to the complainant's preferences in deciding how to deal with the complaint.

Where the Mayor becomes aware of a possible breach of the *Code of Conduct* by the General Manager, they may initiate the process for the consideration of the matter in accordance with the *Code of Conduct* without a written complaint. The Mayor also has senior staff available to assist in such matters including Council's Group Manager Corporate Services, General Counsel or the Manager, Risk and Audit.

The specific provisions regarding Code of Conduct complaints about the General Manager are set out below:

How are code of conduct complaints about the General Manager to be dealt with?

The Mayor must refer the following code of conduct complaints about the general manager to the Division:

- a) *complaints alleging a breach of the pecuniary interest provisions of the Act,*
- b) *complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and*

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- c) *complaints the subject of a special complaints management arrangement with the Division under clause 5.40.*

Where the Mayor refers a complaint to the Division under clause 5.21, the Mayor must notify the complainant of the referral in writing.

Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Division under clause 5.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.25.

Where the Mayor resolves a code of conduct complaint under clause 5.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.

The Mayor must refer all code of conduct complaints about the general manager other than those referred to the Division under clause 5.21 or resolved under clause 5.23 to the complaints coordinator.

The detailed procedure for complaint management is set out in the *Code of Conduct*.

In addition, where complaints about the General Manager are received by the Mayor, the Mayor is to advise all Councillors in writing that a complaint has been received and, where appropriate, the nature of the complaint. In addition, the Mayor is to advise all Councillors of the intended course of action and subsequently report the complaint handling plan to Council as a confidential Mayoral Minute.

## 15. Mayor's Responsibilities with respect to Public Interest Disclosures

The provisions for the reporting of Public Interest Disclosures are set out in Council's adopted *Internal Reporting Policy – Public Interest Disclosures* which aligns to the *Public Interest Disclosures Act, NSW, 1994*.

The Mayor is identified as a Public Interest Disclosure Officer and as such is able to receive complaints regarding Councillors or the General Manager.

In this role the Mayor is responsible for:

- deciding if a report is a protected disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.

The Mayor must make sure there are systems in place in the City of Ryde to support and protect staff who report wrongdoing.

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If the report is about the General Manager, the Mayor is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

To support the Mayor in this role, training will be provided regarding the management and handling of protected disclosures. This training will also be offered to the Deputy Mayor where possible. The Mayor also has senior staff available to assist in such matters including Council's Disclosures Coordinator, General Counsel or the Manager, Risk and Audit.

## 16. Civic Events, Ceremonies, Conferences and Forums

It is acknowledged that both the Mayor and the General Manager will represent Council at Civic Events, Ceremonies and professional forums etc. When both the Mayor and General Manager are speaking at an event the Mayor will always speak first. Media staff will coordinate the content of each speech to ensure consistency of message and avoid duplication.

When the General Manager is speaking at a forum or conference, he/she will advise the Mayor of the topic of address. The Mayor will respect the independence of the content and the format of the presentation to enable the General Manager to provide his/her professional views. The General Manager must make it clear when doing so if they are not the views of Council or its policies.

When speaking about the City of Ryde Council, Council's policies and views will always be clearly stated by the Mayor and General Manager.

## 17. Civic and Ceremonial Functions of the Mayoral Office

In accordance with the provisions of the *Local Government Act*, the Mayor will undertake the civic and ceremonial functions of the Mayoral Office.

The Mayoral chains and robes are generally only to be worn at official Council functions. Should the Mayor identify another event or occasion where it would be appropriate for the ceremonial clothing to be worn, that this be at the discretion of the Mayor.

In accordance with the Policy on the Payment of Expenses and Provision of Facilities for the Mayor and other Councillors, Council shall meet the cost of providing refreshments and associated expenses for civic receptions hosted by the Mayor at Council premises, subject to funds being available within the appropriate allocation in the Mayor's Office Budget.

## 18. Exercise of Policy Making Functions

Where in cases of necessity, the Mayor exercises the policy-making functions of the Council in between Council meetings, in accordance with Section 226 of the Local Government Act, this is to be communicated to all Councillors and the General Manager as soon as possible.

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Any action taken is to be reported to the next available Council Meeting by way of a Mayoral Minute.

It is recommended that the Mayor liaise and seek guidance from the General Manager, and communicate the intent to exercise such functions to Councillors, prior to the taking of any action.

## 19. Role of the Deputy Mayor

As provided by Section 231 of the Act, the Deputy Mayor may exercise any function of the Mayor at the request of the Mayor, or if the Mayor is prevented by illness, absence or otherwise from exercising the function of the Office of the Mayor.

### *Mayoral Leave of Absence*

The Local Government Act deals with an endorsed Leave of Absence in relation to attendance at Council Meetings only.

Where the Mayor applies for and is granted a Leave of Absence, the Mayor must specifically state as part of the application whether this leave applies only to Council Meetings or whether the Deputy Mayor is to assume the Mayoral duties in accordance with the Act and this document. This will also require a resolution of Council with regard to the payment of any fee to the Deputy Mayor from the Mayor's fee to undertake these duties.

Where the Mayor is on an endorsed Leave of Absence, the Deputy Mayor by resolution of Council will undertake the roles as responsibilities of the Mayor in accordance with this document, legislation and relevant Council policies.

Where the Mayor is not present at a Council Meeting, the Deputy Mayor will preside at that meeting without the requirement of a resolution of Council.

## 20. Updating Relevant Information

Both the Mayor and General Manager will use their best endeavours to keep each other apprised of relevant issues relating to Council's operations and the local government industry. Whilst this should take place on an 'as needs' basis, a more formal regular update meeting may take place between the Mayor and the General Manager and his/her executive team as agreed by both parties.

The Mayor may call fortnightly meetings with the General Manager and the Executive Team. At the Council meeting held 27 August 2013, it was confirmed that any minutes of meetings that the Mayor conducts with the Executive Team were to be provided to all Councillors for their information.

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Additionally on 12 February 2013, Council resolved the following with regard to the fortnightly Executive Team meetings:

That the Mayor or his nominated representative attend Council fortnightly Executive Team Meetings noting that some parts of the meeting may be closed sessions due to operational issues (with reasons provided). That the meetings be minuted and copies be provided to all Councillors.

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