

Acceptable Request Guidelines

– Requests by Councillors

(Information and Provision for Administrative Support)

Local Government Act 2009

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Introduction

Pursuant to section 170A (1) of the *Local Government Act 2009* (the “Act”), a councillor may ask a local government employee to provide information to assist the councillor carry out his or her responsibilities under the Act. Councillors must otherwise not give directions to a local government employee, so as to ensure there is a separation between elected council representatives and the appointed administration of Council.

The responsibilities of councillors under the Act are set out generally in section 12 of the Act, with extra responsibilities for the mayor. An excerpt is attached to these guidelines as **Appendix A**. Requests for information must relate to some identifiable aspect of the councillor’s responsibilities under the Act. The request must also comply with these acceptable requests guidelines adopted by resolution of the local government pursuant to subsection 170A (6) of the Act.

In addition to requests for information, a councillor may also request the provision of administrative support to assist them in performing their responsibilities under the Act, in accordance with section 170AA of the Act. These requests must also be consistent with these guidelines or else they will be of no effect having regard to section 170AA(3) of the Act.

Purpose

The purpose of these guidelines is to set out the way in which a councillor may ask a local government employee for information to help the councillor carry out his or her responsibilities under the Act. These guidelines also set out requirements for requesting administrative support.

Guidelines for information requests

1. The principles that underpin these guidelines are the local government principles set out in the Act; namely—
 - a. transparent and effective processes, and decision-making in the public interest; and
 - b. sustainable development and management of assets and infrastructure, and delivery of effective services; and
 - c. democratic representation, social inclusion and meaningful community engagement; and
 - d. good governance of, and by, local government; and
 - e. ethical and legal behaviour of councillors and local government employees.
2. A further principle valued by Council is open communication and the development of positive relationships between councillors and employees, subject to any obligations imposed by the Act. All requests and responses should reflect this principle.

3. A councillor may approach certain employees directly to ask for information to help the councillor carry out his or her responsibilities under the Act. No personal information, or information protected under privacy legislation or other laws, will be provided. It is also prohibited, under section 170A(4) of the Act, for councillors to request information on:
 - a. a record of the Councillor Conduct Tribunal established under the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* (Qld), or a record of the predecessors to the Councillor Conduct Tribunal;
 - b. information that, if disclosed, would conflict with an order of a court or tribunal;
or
 - c. information that would be privileged from production in legal proceedings as it is subject to legal professional privilege (e.g. legal advice received by Council).
4. No councillor may give a direction or instruction to the chief executive officer or an employee. Councillors must be careful to ensure that any requests cannot be misconstrued as a direction or instruction and remain consistent with these guidelines.
5. The Mayor may give a direction or instruction to the Chief Executive Officer, but not to any other staff member. Directions and instructions must be lawful and in accordance with Council's policies. The Mayor must not give a direction or instruction which:
 - a. is inconsistent with a resolution, or a document adopted by resolution, of Council;
 - b. the appointment of a local government employee by the Chief Executive Officer or their delegate under section 196(3) of the Act;
 - c. disciplinary action by the Chief Executive Officer as it relates to a local government employee under section 197 of the Act, or as it relates to a councillor advisor appointed by Council under section 197A(1) of the Act; or
 - d. if followed, would result in the Chief Executive Officer breaching the law.
6. To ensure accurate information is provided, requests for information may be made to the following employees (refer to specific list in paragraph 14):
 - a. chief executive officer; and
 - b. directors; and
 - c. managers.

Note—the aim of this limitation is to ensure Councillors receive up-to-date and accurate information or advice from those employees who are most likely to be able to assist councillors.

7. If a councillor asks for information from an employee other than under these guidelines, the employee must inform the chief executive officer about the request. Councillors must adhere to these guidelines as breaches may amount to inappropriate conduct or misconduct under the Act.

Example—the chief executive officer must be informed when a councillor asks anyone below the level of manager for advice or information.

8. This guideline does not aim to prevent informal or social interactions between councillors and employees, and informal or social interactions between councillors and employees are encouraged to develop positive relationships.

Examples—

- i. A councillor stops in the street and compliments a work gang on their good work;*
 - ii. A councillor stops and says to a crew “How’s everything going?” as a social exchange rather than a formal request for information.*
9. Employees must offer all reasonable assistance to a councillor who asks for information under these guidelines but must also remain mindful of the limitations imposed on councillors by the Act. Council will support employees who, on reasonable grounds, believes that compliance with a councillor’s request would be inconsistent with the Act or the requirements under these guidelines. Where applicable, the councillor should be politely requested to formalise their request into writing, so that the scope of the information being sought is clear and to avoid the possibility of miscommunication.
10. If an employee is able to provide the information immediately, the employee will do so. If an employee is busy with other matters or cannot otherwise attend to the request immediately or does not expect the request to be fulfilled within ten (10) business days, the request must be referred to the chief executive officer, so that the request can be attended to without undue delay.
11. If an employee needs to check files or undertake research to respond to the request, the employee should endeavour to provide a response within 72 hours. Employees and the Chief Executive Officer must otherwise remain compliant with the timeframes imposed by section 170A(9)(a) of the Act, being a response within ten (10) business days after receiving the request from the councillor. Where the Chief Executive Officer forms a belief that the request cannot be fulfilled within ten (10) business days, they must (in accordance with section 170A(9) of the Act) do the following:
 - a. prepare a written notice to the requesting councillor setting out reasons for their belief that the request cannot be fulfilled within ten (10) business days;
 - b. send that written notice within ten (10) business days of the request; and
 - c. comply with the councillor’s request by no later than twenty (20) business days after it was first received, after giving them the above written notice.
12. It is expected that councillors and employees of Council (including the Chief Executive Officer) communicate with each other regarding requests in a respectful and positive manner. This may include providing timely updates on the progress of requests.
13. The following types of matters must be referred to the chief executive officer who will co-ordinate the response to the request—
 - controversial;

- complicated;
- confidential;
- politically-sensitive;
- where the employee is uncertain of the issue or response;
- relates to information that the employee does not have access to; or
- frivolous or vexatious.

14. The following list specifies the positions to whom requests for information may be made. Requests can be made to the person who substantively holds the position or is in the position in an acting capacity. The power to amend this list is delegated to the Chief Executive Officer as required due to staffing or corporate structure changes.

POSITION
Chief Executive Officer
Director Corporate Services
Director of Engineering
Director Community Development, Tourism, and Regional Prosperity
Engineer
Manager Human Resources
Manager Finance and Administration
Asset Manager
Manager Water and Wastewater
Manager LWBDC
Works Coordinator

15. Employees and the Chief Executive Officer are entitled to make enquiries, in a respectful and constructive manner, to clarify the purpose of a councillor's request. This is to ensure that the requests relate to the councillor's responsibilities. Councillors are required, upon request, to provide written reasons for the request to confirm it is consistent with the Act.

16. Any information provided to councillors must not be used to the detriment of Council. Councillors should assume that any information obtained as a result of a request under these guidelines, which is not publicly available or accessible, is confidential to Council. Such information should not be released by the councillor. These obligations reflect the requirements on the usage of information outlined in section 171 of the Act.

17. As employees are expected to fulfill their usual obligations when actioning requests, a request by a councillor that places an unreasonable burden on Council resources may be rejected or refused by Council. A councillor may subsequently revise their request.

Guidelines for provision of administrative support

18. Council may make available the provision of administrative support to councillors to assist them in performing their responsibilities under the Act. Administrative support is limited to support of a clerical nature, and may include the following types of support:

- a. assistance with answering calls or email enquiries to the councillor;
- b. printing, photocopying, scanning or the sending of documents for the councillor;

- c. assistance with organising meetings and appointments with community members;
 - d. arranging for Council facilities to be used by the councillor for their functions;
 - e. making enquiries on service jobs requested by community members; or
 - f. taking minutes of councillor meetings, or meetings with the Chief Executive Officer.
19. The level of administration support provided to councillors must be incidental in nature, as the support is usually provided by employees who are other duties and responsibilities as part of their role. The provision of the administrative support must not interfere with the employee's ability to fulfil their other duties and responsibilities to Council.
20. A councillor may make a written request to the Chief Executive Officer for the provision of administrative support. Within their request, the councillor must clarify:
 - a. the type of administrative support being requested, and the purpose of the request;
 - b. the length of time that the administrative support is being requested for; and
 - c. any other information that is requested by the Chief Executive Officer.
21. A request by a councillor can be refused where the support does not relate to the councillor's responsibilities under the Act, where the support is not wholly administrative in nature, or where the support requested will place an unreasonable burden on Council resources. Requests that are intended, directly or indirectly, to assist the councillor with campaigning activities (whether during the leadup to elections or otherwise) must be refused by the Chief Executive Officer, to ensure fairness for all councillors. Indirect support may include freeing up the councillor's time so that they can focus on campaigns.
22. If the Chief Executive Officer is satisfied it is appropriate to provide the councillor with the administrative support that is requested, they must advise the councillor in writing of their approval and the date on which the administrative support will begin to be provided and (if applicable) the date on which the administrative support will end. The approval may also specify the local government employee that is responsible for providing the support.
23. The written approval is to be provided to any local government employee that is tasked with providing administrative support to the requesting councillor. The councillor may give a direction to any local government employee tasked with providing them administrative support, but only if the direction relates directly to the administrative support which has been approved by the Council in accordance with these guidelines.
24. Whilst Council will endeavour to support the responsibilities of councillors under the Act, the Chief Executive Officer may by written notice revoke approval for administrative support if there are subsequently grounds for refusal mentioned in paragraph 21.

ANNEXURE A – Extract of section 12 of the Act

Responsibilities of councillors

- (1) A councillor must represent the current and future interests of the residents of the local government area.
- (2) All councillors of a local government have the same responsibilities, but the mayor has some extra responsibilities.
- (3) All councillors have the following responsibilities—
 - (a) ensuring the local government—
 - (i) discharges its responsibilities under this Act; and
 - (ii) achieves its corporate plan; and
 - (iii) complies with all laws that apply to local governments;
 - (b) providing high quality leadership to the local government and the community;
 - (c) participating in council meetings, policy development, and decision-making, for the benefit of the local government area;
 - (d) being accountable to the community for the local government’s performance.
- (4) The mayor has the following extra responsibilities—
 - (a) leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings;
 - (b) leading, managing, and providing strategic direction to, the chief executive officer in order to achieve the high-quality administration of the local government;
 - (c) directing the chief executive officer of the local government under section 170;
 - (d) conducting a performance appraisal of the chief executive officer, at least annually, in the way that is decided by the local government (including as a member of a committee, for example);
 - (e) ensuring that the local government promptly provides the Minister with the information about the local government area, or the local government, that is requested by the Minister;
 - (f) being a member of each standing committee of the local government;
- (5) A councillor who is not the mayor may perform the mayor’s extra responsibilities only if the mayor delegates the responsibility to the councillor.
- (6) When performing a responsibility, a councillor must serve the overall public interest of the whole local government area.