



Blackall-Tambo

Regional Council

Acceptable Request Guidelines

HEAD OF POWER

Local Government Act 2009

OBJECTIVE

To provide clear guidelines for the way in which the Mayor and Councillors ask Relevant Council employees, other than the Chief Executive Officer, for advice to help the Councillor make a decision.

DEFINITIONS/APPLICATIONS

These guidelines are made pursuant to Section 170A of the *Local Government Act 2009*.

Section 13 (3) (f) of the *Local Government Act 2009* provides that the Chief Executive Officer has, inter alia, the following responsibilities:-

- (f) complying with requests from Councillors under section 170
 - i. for advice to assist the councillor carry out his or her role; or
 - ii. information, that the local government has access to, relating to the local government.

Section 170 of the *Local Government Act 2009* provides as follows:-

- (1) The Mayor may give a direction to the chief executive officer.
- (2) However, a direction under subsection (1) must not be inconsistent with a resolution, or a document adopted by resolution of the local government.
- (3) No Councillor, including the Mayor, may give a direction to any other local government employee.

The advice guidelines are guidelines, made by Council, about the way in which a Councillor is to ask a local government employee for advice to help the Councillor make a decision.

Section 170A of the *Local Government Act 2009* provides as follows:-

- (1) A councillor may ask a local government employee provide advice to assist the Councillor carry out his or her responsibilities under this Act.
- (2) A Councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information, that the local government has access to, relating to the local government.
- (3) If the advice or information requested under subsection (1) or (2) related to a document, the requirement under subsection (9) to comply with the request includes a requirement to provide a copy of the document.

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- (4) Subsection (2) and (3) does not apply to information or a document –
 - (a) That is a record of the conduct tribunal; or
 - (b) That was a record of a former conduct review body; or
 - (c) If disclosure of the information or document to the Councillor would be contrary to an order of a court or tribunal; or
 - (d) That would be privileged from production in a legal proceeding on the ground of legal professional privilege.
- (5) A request from a Council under subsection (1) or (2) is of no effect if the request does not comply with the acceptable request's guidelines.
- (6) Subsection (5) does not apply to –
 - (a) The Mayor; or
 - (b) The chairperson of a committee of the Council if the request related to the role of the chairperson.
- (7) The acceptable requests guidelines are guidelines, adopted by resolution of the local government, about
 - (a) The way in which a councillor may ask a local government employee for advice to help the Councillor carry out his or her responsibilities under this Act; and
 - (b) Reasonable limits on requests that a Councillor may make.
- (8) In this section a local government employee includes a person prescribed under a regulation.
- (9) The chief executive officer must comply with a request made to the chief executive officer under subsection (1) or (2) –
 - (a) Within 10 business days after receiving the request; or
 - (b) If the chief executive officer reasonably believes it is not practicable to comply with the request within 10 business days- within 20 business days after receiving the request.

Maximum penalty – 20 penalty units.

- (10) If the chief executive officer forms the belief mentioned in subsection (9)(b), the chief executive officer must give the councillor notice about the belief and reasons for the belief within 10 business days after receiving the request.

- (11) In this section-

Former conduct review body means a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal under this Act as in force before the commencement of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018, section 18*.

Section 171 *Local Government Act* – Use of Information by Councillors.

- (1) A person who is, or has been, a Councillor must not use information that was acquired as a councillor to –
 - (a) Gain, indirectly or directly, a financial advantage for the person or someone else; or
 - (b) Cause detriment to the local government.

Maximum penalty – 100 units or 2 years imprisonment.

- (2) Subsection (1) does not apply to information that is lawfully available to the public.

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- (3) A Councillor must not release information that the Councillor knows, or should reasonably know, is information that is confidential to the local government.

POLICY STATEMENT

1. These guidelines enable the efficient delivery of advice to the Mayor and Councillors by establishing rules for Councillors requests for advice.
2. These guidelines should not be used as an alternate procedure for dealing with customer enquiries. Initial customer enquiries must be directed to the Customer Service Officers.

Where a matter occurs after-hours and is of such urgency that to delay contact will bring harm to the Council or damage the reputation of Council, the Mayor and Councillors may contact one of the Council employees listed below:

- Chief Executive Officer

If an after-hours matter is of an operational nature the Mayor and Councillors must log a request through the general Council phone number 07 4621 6600, once a Customer Services Officer has checked for messages and such a call is received, it (the call) must be properly documented and the call details are to be included in a register as well as being passed onto Council's CEO or CEO's delegated person if the CEO is absent from work.

3. Requirements

Councillor requests for advice from Relevant Employees other than the Chief Executive Officer must comply with the following requirements:

3.1 General

- 3.1.1 Councillors may request advice to help the Councillor make a decision, from the following employees:-

Department	Position
Governance	Chief Executive Officer
Finance	Chief Financial Officer
Works	Chief Operations Officer
Corporate Services	Director of Organisational Performance
Community	Director of Lifestyle and Community

- 3.1.2 Requests for advice must be made in a professional manner and with respect.
- 3.1.3 In requesting advice, Councillors must not direct or pressure Council employees in relation to their work or recommendations they should make.
- 3.1.4 In requesting advice, Councillors must not behave towards employees in an overbearing or threatening manner.
- 3.1.5 Requests for advice must be directed as follows:



- (a) Councillors may request from the Chief Executive Officer or Relevant Employee, help or advice of a nature given to the public, and under the same conditions.
- (b) Councillors will direct all request for advice to the Chief Executive Officer, or the Relevant Employee as per the attached Corporate Structure indicating “functions” and areas of responsibility.
- (c) Councillors’ requests for advice must identify the proposed decision that the Councillor needs advice upon.
- (d) Councillors’ requests for advice must not take the form of an attempt to direct or pressure a Relevant Employee to prepare a response in a certain manner.
- (e) Councillors’ requests for advice must be made in writing, such as, by email, unless determined otherwise by the Chief Executive Officer or Relevant Employee in consultation with the Councillor.
- (f) Councillors must inform the Chief Executive Officer if they believe a Relevant Employee has not appropriately responded to a request for advice.

3.2 Employees

- 3.2.1 Copies of any formal written advice provided to one Councillor should be provided, where practical and relevant, to all Councillors, the Chief Executive Officer and Managers.
- 3.2.2 Employees must keep records of advice given to Councillors as they would do when advising a member of the public. This should be recorded electronically in Council’s Electronic Document and Records Management System (Magiq).
- 3.2.3 If the Mayor or a Councillor asks for help or advice from an employee other than under these guidelines, the employee must inform the Chief Executive Officer or Manager about the request as soon as is practicable.
- 3.2.4 If the Mayor or a Councillor directs or attempts to direct an employee about the way in which the employee’s duties are to be performed, the employee must report this to their Manager or Chief Executive Officer.
- 3.2.5 Employees should inform their Manager or Chief Executive Officer if they believe a Councillor has behaved inappropriately and/or not in accordance with these guidelines.

REVIEW TRIGGERS

This Policy is reviewed internally for applicability, continuing effect and consistency with related documents and other legislative provisions when any of the following occurs:

- (1) The related documents are amended.
- (2) The related documents are replaced by new documents.
- (3) Amendments which affect the allowable scope and effect of a Policy of this nature are made to the head of power.
- (4) Other circumstances as determined from time to time by a resolution of Council.

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Notwithstanding the above, this Policy is to be reviewed at least once every two years for relevance and to ensure that its effectiveness is maintained.

RESPONSIBILITY

The Policy is to be

- (1) Implemented by all Councillors and Employees; and
- (2) Reviewed and amended in accordance with the “Review Triggers” by Council.