

G.08 Acceptable Request Guidelines Policy

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Date Adopted by Council	10 June 2016		Council Resolution No.	06-05-20
Effective Date	10 June 2016		Review Date	May 2022
Policy Owner	Council		Responsible Officer	CEO
Policy Number	G.08		IX Reference	91128
Version Number	V1	15-May-13	Developed and adopted	
	V2	08-Apr-14	Reviewed and adopted	
	V3	10-Jun-16	Reviewed and adopted	
	V4	13-Apr-18	Reviewed – no changes	
	V5	08-May-20	Reviewed and adopted	

- CEO Chief Executive Officer
- DCCS Director of Corporate & Community Services
- DES Director of Engineering Services
- MFS Manager Financial Services

1 OBJECTIVE

Quilpie Shire Council promotes a culture within its organisation which values a close working relationship between elected members and staff so that elected members are able to quickly access information and seek advice from appropriate staff to enable them to undertake their duties effectively.

2 SCOPE

This policy applies to all requests for advice, information and assistance from Councillors to staff.

3 STATEMENT

3.1 INTRODUCTION

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

(f) complying with requests from councillors under section 170A—

(i) for advice to assist the councillor carry out his or her role as a Councillor; or

(ii) for information, that the local government has access to, relating to the local government.

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

1. (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. (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.

Example of a limit prescribed under a regulation—

A regulation may prescribe the maximum cost to a local government of providing information to a Councillor.

3. (3) If the advice or information requested under subsection (1) or (2) relates to a document, the requirement under subsection (9) to comply with the request includes a requirement to provide a copy of the document.
4. (4) Subsections (2) and (3) do not apply to information or a document –
5. (a) that is a record of the conduct tribunal; or
6. (b) that was a record of a former conduct review body; or
7. (c) if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
8. (d) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.
9. (5) A request of a councillor under subsection (1) or (2) is of no effect if the request does not comply with the acceptable requests guidelines.
10. (6) Subsection (5) does not apply to-
11. (a) the mayor; or
12. (b) the chairperson of a committee of a local government if the request relates to the role of the chairperson.

13. (7) The **acceptable requests guidelines** are guidelines, adopted by resolution of the local government, about-
 14. (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
 15. (b) reasonable limits on requests that a councillor may make.
16. (8) In this section a **local government employee** includes a person prescribed under a regulation.
17. (9) The chief executive officer must comply with a request made to the chief executive officer under subsection (1) or (2)-
 18. (a) within 10 business days after receiving the request; or
 19. (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

20. (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 the reasons for the belief within 10 business days after receiving the request.
21. (11) In this section –
22. 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.

The requirement to direct all councillor requests for advice or information through the Chief Executive Officer is impractical. Section 170A enables the Council to prepare guideline for the necessary councillor / employee interaction.

These guidelines enable interaction to occur by establishing rules for dealing with councillor requests for advice.

3.2 ADVICE TO ASSIST THE COUNCILLOR CARRY OUT HIS OR HER ROLE AS A COUNCILLOR

Councillors may request advice to assist them carry out their roles, from the following employees:

Department	Position
Governance	CEO
Engineering Services	CEO Director of Engineering Services
Corporate & Community Services	CEO Director of Corporate & Community Services
Planning & Environment	CEO
Work Place Health Safety	CEO

Councillor’s request for advice to assist them carry out their roles, must be made in accordance with the following:

- Councillors’ requests for advice must be made in writing (e.g. Letter, memo, facsimile or email) unless the staff member receiving the request agrees to accept the request orally.

3.3 ACCESS TO INFORMATION

3.3.1 Council Officers To Provide Councillors With Information

The following Council officers are to deal with Councillors' request for provision of information:

Department	Position
Governance	CEO Manager Financial Services Senior Admin Officer Governance & Communication
Engineering Services	CEO Director of Engineering Services
Corporate and Community Services	CEO Director of Corporate & Community Services
Planning, Building & Environment	CEO
Work Place Health Safety	CEO Work Place Health & Safety Officer
Economic Development & Tourism	CEO Tourism Manager

3.3.2 Councillor Requests For Provision Of Information

Councillors may request information in accordance with the following:

- A "Councillor Access to Information" request form is to be completed and given to the appropriate officer identified in the above table. A copy of that request must also be forwarded to the office of the CEO.
- In completing the request form, the councillor will indicate the information required and the reason for seeking access.
- Where a councillor is unsure as to what information to request, he or she should contact the appropriate officer for assistance.
- Upon receipt of the request, the appropriate officer must determine if the councillor has a right to access the information (see section 170A(3) of the Local Government Act 2009).
- If it is appropriate to provide access, the appropriate officer must:
 - record the information to which access is available on the Councillor Access to Information request form;
 - ensure that the requesting Councillor is provided with access to all relevant information;
 - explain any issues in the information which relate to confidentiality or other sensitive matters;
 - if appropriate, provide any other information necessary to place the information being accessed, in context.

If it is not appropriate to provide access, the officer must advise the councillor as to the reasons for this decision and record these reasons on the Councillor Access to Information request form.

Completed "Councillor Access to Information" request forms must be forwarded to the Chief Executive Officer prior to filing.

In accessing the information, Councillors are reminded of their obligations under Section 171 of the Local Government Act 2009, and any confidentiality policy made by Council under section 171(3). Section 171 provides: -

171 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, directly or indirectly, a financial advantage for the person or someone else; or
 - (b) cause detriment to the local government.

Maximum penalty—100 penalty units or 2 years imprisonment.

2. Subsection (1) does not apply to information that is lawfully available to the public.
3. A Councillor must not release information that the Councillor knows, or should reasonably know, is information that is confidential to the local government.

Note—

A contravention of subsection (3) is misconduct that is dealt with by the tribunal.

171A Prohibited conduct by councillor in possession of inside information

1. This section applies to a person (the *insider*) who is, or has been, a councillor if the insider—
 - a. acquired inside information as a councillor; and
 - b. knows, or ought reasonably to know, that the inside information is not generally available to the public.
2. The insider must not cause the purchase or sale of an asset if knowledge of the inside information would be likely to influence a reasonable person in deciding whether or not to buy or sell the asset.

Maximum penalty—1000 penalty units or 2 years imprisonment.

3. The insider must not cause the inside information to be provided to another person the insider knows, or ought reasonably to know, may use the information in deciding whether or not to buy or sell an asset.

Maximum penalty—1000 penalty units or 2 years imprisonment.

4. In this section—

cause, in relation to an action, includes the following—

- a. carry out the action;
- b. instigate the action;
- c. direct, or otherwise influence, another person to carry out or instigate the action.

Corporate entity means a corporation that is owned by the local government.

Inside information, in relation to a local government, means information about any of the following—

- a. the operations or finances of the local government (including any business activity of the local government) or any of its corporate entities;
- b. a proposed policy of the local government (including proposed changes to an existing policy);
- c. a contract entered into, or proposed to be entered into, by the local government or any of its corporate entities;
- d. a tender process being conducted by or for the local government or any of its corporate entities;

- e. a decision, or proposed decision, of the local government or any of its committees;
- f. the exercise of a power, under a Local Government Act, by the local government, a Councillor or a local government employee;
- g. the exercise of a power, under an Act, by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the local government, any of its corporate entities or land or infrastructure within the local government’s area;
- h. any legal or financial advice created for the local government, any of its committees or any of its corporate entities.

4 DEFINITIONS

Nil

5 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

Local Government Act 2009

Local Government Regulation 2012

IX #	Details

6 ATTACHMENT A – ACCESS TO INFORMATION REQUEST FORM

“ACCESS TO INFORMATION” REQUEST FORM	
To be completed by the Councillor	
Councillor name	
Relevant officer position and name	
Information requested	
Reason for requiring information	
Format required (electronic, hard copy etc)	
To be completed by the relevant Officer	
Access permitted under the LGA?	YES / NO
If NO Councillor advised?	YES / NO
Summary of information provided	
Signed	
Date	
Form forwarded to CEO?	YES / NO