

HEAD OF POWER

- *Local Government Act 2009*, section 170A

INTENT

The purpose of this policy is to provide guidelines for Councillors requesting assistance of information¹.

SCOPE

This policy applies to all employees, Councillor Advisor (Mayor's Chief of Staff) and Councillors.

DEFINITIONS

Advice means advice to assist the councillor to carry out his or her responsibilities under the Act.

An example: can you explain this financial statement? What does this strategy achieve?

Councillor Advisor means an appropriately qualified person appointed to assist the Mayor in performing their responsibilities under the *Local Government Act 2009* (the Act).

Customer Request Management (CRM) means Council's electronic database for recording customer requests for service, i.e. requests to repair a road or information about hiring a Council facility.

Employee means a local government employee as defined pursuant to the Act.

Executive Leadership Team (ELT) means the Senior Executive Officers that report to the Chief Executive Officer and includes the Chief Executive Officer.

Information means as defined in section 170A of the Act, the information the local government has access to, relating to the local government. This does not apply to information:

- (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.

An example: how many trainees does Council employ? When is the project due to commence?

POLICY STATEMENT

1. A Councillor may ask for advice or information in accordance with this policy.

¹ Section 170A of the *Local Government Act 2009*

2. A request is of no effect if the request does not comply with these guidelines.
3. Clause 2 does not apply to:
 - (a) The Mayor; or
 - (b) The chairperson of a committee of Council if the request relates to the role of the chairperson².
4. The Mayor may give a direction to the Chief Executive Officer³ however, this must not be given in the circumstances set out in section 170(2). No Councillor, including the Mayor, can give a direction to any other employee except in accordance with the guidelines made under section 170AA of the Act.
5. The Chief Executive Officer must keep a record and make available to Council each direction given by the Mayor⁴.
6. Requests for service should be directed through Council's CRM system for appropriate recording purposes and to be allocated to the responsible department for investigation and/or action. The department will liaise directly with the customer and provide any feedback if required. This policy does not apply to customer requests for service.
7. All requests must be made in a respectful manner to the relevant person.
8. A Councillor or Councillor Advisor may ask any employee to provide advice to assist them to carry out his or her responsibilities⁵ under the Act⁶.
9. A Councillor may ask the Chief Executive Officer to provide information, that Council has access to, relating to the local government⁷.
10. If the advice or information requested under item (8) or (9) above relates to a document, the Chief Executive Officer must comply with the request:
 - (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, i.e. the request may impact adversely on current employee workload – within 20 business days after receiving the request⁸.

If the Chief Executive forms the belief mentioned above in (10)(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 request⁹.

² Section 170A(6) of the *Local Government Act 2009*

³ Section 170(1) of the *Local Government Act 2009*

⁴ Section 170(4) of the *Local Government Act 2009*

⁵ Section 12 of the *Local Government Act 2009*

⁶ Section 170A(1) of the *Local Government Act 2009*

⁷ Section 170A(2) of the *Local Government Act 2009*

⁸ Section 170A(9) of the *Local Government Act 2009*

⁹ Section 170A(10) of the *Local Government Act 2009*

11. Where appropriate, a response to a Councillor request for information or document should be provided to **all** Councillors. This ensures transparency of information provided to the requesting Councillor, is given to all Councillors.
12. If an employee is contacted by a Councillor requesting advice that is not in accordance with this policy, the employee should advise the Chief Executive Officer as soon as practical providing the nature of the request and any advice given.
13. Requests from a Councillor Advisor for information may be made to the Chief Executive Officer or an ELT member, in which case such request will be responded to within 10 business days of receipt of the request or if not practicable to comply with the request within 10 business days, within 20 business days after receiving the request.
14. Unless the information is generally in the public domain, any information or advice a Councillor receives pursuant to this policy is subject to section 171 of Act, Code of Conduct for Councillors in Queensland and Councillor Use of Confidential Information Policy.
15. Councillors and the Councillor Advisor must not request information that cannot be lawfully disclosed such as information under the *Crime and Corruption Act 2001* or the *Public Interest Disclosure Act 2010* or information that is subject to legal professional privilege.
16. Breaches of this policy will be addressed in accordance with the Act.
17. For clarity, a request for information which is in the public domain will not be considered a request for information under this policy.

ASSOCIATED DOCUMENTS

- Councillor Acceptable Requests Guidelines Flowchart
- Code of Conduct for Councillors in Queensland
- Code of Conduct for Councillor Advisors in Queensland
- Councillor Use of Confidential Information Policy
- Employee Code of Conduct Policy

DOCUMENTS CONTROLS

Council will review this policy biennially or in response to changes in legislation or best practice.

POLICY OWNER

Chief Legal Officer, Governance and Legal Services.