

1. Purpose

- 1.1 Whitsunday Regional Council is committed to ensuring that its elected representatives have appropriate access to relevant advice or information they require to fulfil their roles and to facilitate informed decision making.
- 1.2 This policy establishes the way in which Councillors are expected to interact with Employees. This Policy also incorporates the acceptable requests guidelines as required by section 170A(7) of the *Local Government Act 2009 (Qld)*.
- 1.3 Councillors and Employees should be able to interact to deliver positive outcomes for the community. However, the separation between Councillors and the Council organisation comprised of Employees established by the LGA should be respected.
- 1.4 It is important that the right balance is achieved to ensure:
 - 1.4.1 constraints on the flow of information are not unduly onerous;
 - 1.4.2 Council Employees' time and resources are appropriately respected;
 - 1.4.3 appropriate controls are in place to protect both Council Employees and Councillors; and
 - 1.4.4 the principles of good governance are respected.

2. Scope

- 2.1 This policy applies to all Councillors and Employees. However, nothing in this policy overrides or derogates from the Mayor's power to direct the CEO pursuant to section 170 (A) (2) of the LGA, or any Councillor's rights under section 170A(2).

3. Policy Statement

Acceptable Requests Guidelines Outline

- 3.1 Councillors may seek advice or information from Employees in order to perform their responsibilities under the LGA.
- 3.2 To maintain the integrity of the relationship between the elected and administrative elements of Council, this policy specifies:
 - 3.2.1 the way in which Councillors may request advice or information from Employees, including the reasonable limits on requests that a Councillor may make;
 - 3.2.2 the Employees who may respond to requests; and
 - 3.2.3 the manner in which Employees are to respond to Councillor requests.

General Requirements For Requests

- 3.3 When asking for advice or information, Councillors should:

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3.3.1 act in accordance with the LGA (particularly section 170A), Local Government Principles and Code of Conduct for Councillors in Queensland;

3.3.2 not direct, or attempt to direct an Employee to do anything;

[Note: Section 170(3) prohibits a Councillor directing an Employee, other than the Mayor directing the CEO. It is misconduct to breach this prohibition.]

3.3.3 not behave towards an Employee in an overbearing or threatening manner;

3.3.4 not coerce or entice, or attempt to coerce or entice an Employee to do anything that does not comply with these Guidelines;

3.3.5 not unduly disrupt or burden an Employee in the undertaking of that Employee's routine employment obligations;

3.3.6 not place, or attempt to place, an Employee in a position that would create a conflict of interest for that Employee, or that would compromise the integrity and honest performance of that Employee;

3.3.7 comply with all laws that apply to Council, as well as Council's policies, procedures and guidelines;

3.3.8 not breach or request an Employee directly or indirectly breach any confidentiality obligations under legislation, particularly in circumstances where information is not to be disclosed by Councillors (for example, the *Information Privacy Act 2009*, *Crime and Corruption Act 2001*, *Public Interest Disclosure Act 2010* and the *Workers Compensation and Rehabilitation Act 2003*);

3.3.9 during the caretaker period not request advice or information that involves or relates to major policy decisions of Council or which will result in or be likely to result in any inappropriate political gain or advantage for the Councillor (as per sections 90A – 90D of the LGA);

3.3.10 act in good faith; and

3.3.11 be respectful, reasonable and professional.

3.4 Councillors should be aware that any request for advice or information and response provided may be subject to disclosure if an application for access is made under the *Right to Information Act 2009*.

3.5 Councillors may request advice or information with assistance from an allocated Councillor Support Officer. However, when doing so, the Councillor Support Officer should not be utilised in a way to deliberately circumvent the requirements of this policy.

How A Councillor Can Make A Request For Advice Or Information

3.6 A Councillor may ask:

3.6.1 for information - the CEO (only) for information that Council has access to, relating to Council; or

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- 3.6.2 for advice - the CEO or relevant Function lead for advice to assist the Councillor to carry out his or her responsibilities under the LGA.
- 3.7 A Councillor may ask for advice or information by lodging the request either:
- 3.7.1 via a Councillor Support Officer;
 - 3.7.2 via email;
 - 3.7.3 via telephone; or
 - 3.7.4 in person.
- 3.8 The CEO or Function Lead may require that the request be made (or remade) in writing to ensure that the request is able to be fulfilled and meets the requirements of this policy and the LGA.

Process For Requests

- 3.9 Requests for advice or information may be managed by assigned Councillor support staff and sent to the most appropriate Employee for response.
- 3.10 Requests will be acknowledged by the relevant employee and responses must be provided in accordance with section 170A of the LGA, being:
- 3.10.1 within 10 business days of receiving the request; or
 - 3.10.2 if it is not practicable to comply with the request within 10 business days, within 20 business days after receiving the request. For complex matters, an interim response (to the extent possible) must be provided within 10 business days.

Service Requests

- 3.11 Service requests made by residents or by Councillors on behalf of residents are not considered requests for advice or information.
- 3.12 Where the Councillor has made a request on the status, and/or the process to be followed for the actioning of a service request, this is considered a request for advice.

Reasonable Limits On Requests For Advice Or Information

- 3.13 A Councillor may not ask for information:
- 3.13.1 that is capricious or which will place an unreasonable burden on Council's resources;
 - 3.13.2 that is a record of the conduct tribunal or former conduct review body;
 - 3.13.3 if disclosure of the information to the Councillor would be contrary to an order of a court or tribunal;
 - 3.13.4 that would be privileged from production in a legal proceeding on the grounds of legal professional privilege;
 - 3.13.5 that would disclose personal information, including employees' bank accounts details, child support deductions or tax file number;
 - 3.13.6 which is protected under legislation, including information that:

- 3.13.6.1 relates to a public interest disclosure under the *Public Interest Disclosure Act 2010*;
- 3.13.6.2 is confidential information under the *Crime and Corruption Act 2001*;
- 3.13.6.3 is about matters relating to the conduct of any councillor pursuant to Part 3, Chapter 5A of the LGA; and or
- 3.13.7 that is a record in relation to an Employee's recruitment and performance with the exception of the recruitment and performance of the CEO.

Provision Of Documents Or Information In Response To Requests

- 3.14 In line with Council's commitment to the environment and a reduction in paper usage, access to electronic copies of documents will be provided wherever possible. However, there may be circumstances where it is appropriate for Council to provide a paper copy only, including for documents where no electronic copy exists, or due to the sensitivity of the document.
 - 3.15 Councillors should be aware of their responsibilities under the Act regarding the sharing or further distribution of advice or information. The right of Councillors to have access to information is for the sole purpose of exercising the roles and responsibilities of a Councillor. It does not carry with it the right to disclose any information obtained by a Councillor to another person, unless the information is already publicly available.
 - 3.16 While not every document will be considered 'Confidential', Councillors should be aware that information provided may contain confidential material and should be handled appropriately to ensure that Council maintains its reputation and good standing within the community.
- [Note: Section 171 of the LGA makes it an offence to use information acquired as a Councillor to gain a financial advantage for the Councillor or another, or to cause detriment to Council. It is misconduct to release information that a Councillor knows, or should reasonable known, is information that is confidential to Council.]*
- 3.17 Providing details of discussions held with Employees regarding Council projects, internal policy considerations or technical opinion with third parties should be avoided.
 - 3.18 Councillors should not by-pass the provisions of the *Right to Information Act 2009* by providing members of the public with information made available to a Councillor as an elected representative that is not already publicly available.

[Note: The Right to Information Act 2009 provides important safeguards for the release of Council information, including exemptions, public registers of released documents and cost recovery. The purpose of this restriction is not to prevent the release of information, but to ensure information is released in accordance with Council's processes.]

- 3.19 Councillors should ensure that hardcopy documents provided by Council are kept secure at all times and securely destroyed when the documents are no longer required.

Provision Of Documents Or Information Relating To Reports To A Committee Or Council

- 3.20 Where a request for the provision of advice or information relates to a matter on an upcoming agenda of a committee or Council meeting, the response should be provided to all members of the relevant committee or Council.

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- 3.21 The timing of responses to requests in relation to items on an agenda of a committee or Council should have consideration to the meeting date and prioritise providing the advice or information in advance of the meeting.

'View Only' Access To Documents

- 3.22 Council may have documents which, due to their nature, cannot be shared (electronically or in hardcopy) with Councillors, but can be viewed by Councillors.
- 3.23 Where 'view only' access to documents is the preferred option available for requested documents, Councillor Support Officers will organise a suitable time in a meeting room.
- 3.24 Appropriate reasons to only allow 'view access' to a Councillor include if:
- 3.24.1.1 a document is of historical significance and could be damaged if copied or scanned;
 - 3.24.1.2 copying or scanning a document would unreasonably divert the resources of Employees (e.g. due to length or complexity);
 - 3.24.1.3 a document cannot be copied or reproduced by law or agreement; or
 - 3.24.1.4 the contents of the document are considered by the CEO to be of such a confidential or sensitive nature, that a risk could arise in the provision of the document in hardcopy or electronic format.

Request A Review

- 3.25 If a Councillor is not satisfied with a response to their request for advice or information, the Councillor may ask the CEO for a review. That review shall be undertaken by CEO's nominee under Council's Complaints General Management Policy.
- 3.26 Councillors should not directly contact an Employee regarding a complaint about a request for advice or information. All complaints should be directed to the CEO.

Customer Requests

- 3.27 Where a community member/customer is unwilling or unable to contact Council directly, a Councillor may submit a request for support on their behalf via Councillor Support Staff.
- 3.28 Community members/customers will not receive preferential treatment by lodging service requests via Councillors. Any requests raised through this channel will be processed in accordance with usual service level standards.
- 3.29 Council should endeavour to keep the requesting Councillor informed of how the request is being dealt with.

Raising A General Operational Matter With Council

- 3.30 If a Councillor has identified an ordinary operational matter, (e.g. reporting a pothole, missed bin service or submitting an application) that requires attention, the Councillor may raise this request

via any existing channels available to external customers and also via the allocated councillor administrative support.

- 3.31 In these circumstances the Councillor is considered to be a customer. The same service level standards that apply to external community members/customers will be applicable for these issues.

Complaints Regarding Operational Performance

- 3.32 Feedback from the community regarding operational performance is an important aspect of a Councillors legislated role of monitoring the performance of Council.
- 3.33 If a community member raises a concern with the performance or service provided by Council, the Councillor should in the first instance raise the concern with the CEO or Function Lead.
- 3.34 Councillors shall be mindful of adopted service response standards when monitoring service requests. A Councillor shall not directly contact an Employee regarding a complaint about operational performance.
- 3.35 Where the complaint is about a decision or action taken by Council's administration, the complainant should be directed to make a complaint under Council's General Complaints Management Policy.

Emergency And After Hours Service

- 3.36 Councillors should use the after-hours emergency service process if they become aware of an after hours emergency. This will ensure the effective operation of the afterhours service as well as duty of care for On-call Employees.
- 3.37 When an issue arises after-hours that is not an emergency, but is of such urgency that to delay contact would bring harm to Council or damage the reputation of Council, Councillors may contact the CEO or relevant Function Lead.

Suspected Breaches Of Policy

- 3.38 A breach of this policy by a Councillor may constitute a breach of the Code of Conduct for Councillors in Queensland. The Office of the Independent Assessor is the responsible agency for complaints about the performance or conduct of a councillor in Queensland.
- 3.39 A breach of this policy by Employees may constitute a breach of the Employee Code of Conduct and is reported to the CEO or relevant Director who is to handle the complaint in accordance with adopted Council process.

4. Related Policies and Legislation

Crime and Corruption Act 2001 (Qld)

Information Privacy Act 2009 (Qld)

Local Government Act 2009 (Qld), in particular sections 4, 12, 13, 170, 170A, 170AA, 171 and 171A

Public Interest Disclosure Act 2010 (Qld)

Public Sector Ethics Act 1994 (Qld)

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Right to Information Act 2009 (Qld)

Workers Compensation and Rehabilitation Act 2003 (Qld)

Code of Conduct for Councillors in Queensland

Council's Employee Code of Conduct; and

General Complaints Management Policy

5. Definitions

Advice means advice to assist a Councillor to carry out his or her responsibilities under the LGA.

CEO means the Chief Executive Officer of Council.

Council means Whitsunday Regional Council.

Councillor means the elected representatives who hold (current) office with Council, including the Mayor.

Councillor Support Officer means an Employee whose primary roles is to support a Councillor regardless of position title and includes the Executive Assistance to the Mayor.

Employee means a person who carries out work in any capacity for Council, including for example temporary, or permanent employees, contractors, sub-contractors, employees of a labour hire company, outworkers, trainees, apprentices, volunteers and work experience students.

Function Lead means an employee nominated by the CEO as the responsible officer for a service or function.

Information means information relating to Council that the local government has access to. It includes records and documents (in printed and electronic form) that Council possesses or can access.

LGA means the *Local Government Act 2009* (Qld).

Local Government Principles has the meaning given by the LGA.

Requests refers to any request by a Councillor for information or advice.

COUNCIL POLICY

Date Adopted by Council	27 November 2024	Council Resolution	OM2024/11/27.9
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Responsible Officer(s)	Manager Governance and Administration Services	Revokes	LSP_OMCEO_01