

Policy



STATUTORY

ACCEPTABLE REQUESTS BY COUNCILLORS FOR ADVICE OR INFORMATION

Head of Power

Sections 170A and 170AA of the *Local Government Act 2009*

Key Supporting Council Document

Lockyer Valley Regional Council Corporate Plan (2022-2027) –
Lockyer Leadership and Council:

- Compliant with relevant legislation.

Definitions

Advice	means advice to assist the councillor to carry out his or her responsibilities under the <i>Local Government Act 2009</i> .
Councillor Advisor	means an appropriately qualified person appointed in accordance with section 197A of the <i>Local Government Act 2009</i> to assist the Mayor and councillors in performing their responsibilities under the Act.
Employee/s	means all employees of Council, whether employed on a permanent, temporary, or part-time basis.
Former Conduct Review Body	has the meaning given in section 170A(11) of the <i>Local Government Act 2009</i> being a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal under the <i>Local Government Act 2009</i> as in force before the commencement of the <i>Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018</i> , section 18.
Guidelines	means the acceptable request guidelines established in the policy in accordance with section 170A of the <i>Local Government Act 2009</i> .

Group: People, Customer & Corporate Services
Unit: Governance & Property
Approved: Ordinary Meeting (Resolution Number 20-24/1009)

Date Approved: 24/01/2024

ECM: 4702681

Effective Date:
Version: 1.0 Lasted Updated: 24/01/2024
Review Date: 31/03/2027

Superseded/Revoked: Councillor Acceptable Request Policy
ECM: 3945251

Information	means the information the Council has access to, relating to the Council subject to the limits set out in section 170A(4) of the <i>Local Government Act 2009</i> and these Guidelines.
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Policy Objective

The objective of this policy is to establish ‘acceptable request guidelines’ and ‘administrative support guidelines’ (Guidelines) as required by sections 170A and 170AA of the *Local Government Act 2009* covering:

- the way in which a councillor may ask an Employee for Advice or Information to assist the councillor carry out their responsibilities;
- the reasonable limits on requests that a councillor may make;
- the provision of administrative support by Employees to councillors; and
- who may give directions to Employees.

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

A request by a councillor for Advice or Information has no effect if the request does not comply with these Guidelines. However, a request does not need to comply with these Guidelines if it is made by:

- the Mayor; or
- the chairperson of a committee of Council, if the request relates to the role of the chairperson.

Policy Statement

This policy is adopted by Council resolution under section 170A of the *Local Government Act 2009* and contains guidelines in accordance with sections 170, 170A and 170AA of the *Local Government Act 2009*. These Guidelines apply to councillors and Employees of Council and guide all day-to-day communication between councillors and Employees.

These Guidelines should not be used as an alternative procedure for dealing with customer requests, complaints and enquiries. Councillors requesting information on behalf of a member of the public should utilise Council’s Customer Request Management (CRM) system.

Council is committed to:

- maintaining legal and ethical behaviour of Councillors;
- transparent and effective processes and decision making in the public interest;
- good governance of, and by, Council; and
- complying with legislation.

Acceptable Requests for Advice or Information

Communication between councillors and Employees must:

- be conducted in accordance with the local government principles set out in section 4(2) of the *Local Government Act 2009*;
- comply with all relevant laws and Council policies;

- be conducted in good faith; and
- be conducted in a reasonable, respectful and professional manner.

Councillors are able to seek Advice or Information from any Employee where the Advice or Information they are seeking is publicly available. Councillors are able to seek Information and Advice from Managers or Supervisors regarding capital works, operational matters or program information.

Where possible these requests should be via email and should carbon copy the Executive Support Officer to the Chief Executive Officer and Councillors. A councillor must comply with any reasonable requirements of the Employee to either submit their request in writing or clarify the purpose of their request.

The Advice or Information (if unable to be provided as part of the conversation) will be provided to the councillor by email summarising the request and context of the request.

Wherever possible this type of request will be acknowledged within two business days and responded to as soon as reasonably practicable but generally within 10 business days. Should the provision of Advice or Information take longer than 10 business days the relevant Employee will inform the councillor of an expected response time. If the matter requires a more urgent response it should be directed to the Chief Executive Officer or relevant Group Manager.

Councillors are requested to be mindful of the potential impact on Employees and available resources and priorities when requesting urgent responses.

Employees are obliged to inform their supervisor of requests for Advice or Information by councillors that are not generally available to the public. Employees should mark documents confidential where relevant, however it is the Councillor's responsibility to ensure they use the Advice or Information in an ethical and legal manner.

Councillors should consider any likely cost implications in making requests for Advice or Information, and not make requests where the costs cannot be justified as being in the public interest. If the cost of providing Advice or Information is likely to be high, the councillor may make the request only to the Chief Executive Officer, who is expressly authorised by the Council to seek to minimise the costs of providing the Advice or Information.

The Chief Executive Officer or the Employee's Manager or Group Manager may authorise provision of any requested Advice or Information to all other councillors if it is considered that such provision would be in the best interests of Council and/or the community or if the request relates to a matter currently under consideration by Council. In doing so, the authorising officer will advise the relevant councillor of their intention to provide the information to all councillors.

Employees must keep records of Advice and Information provided to councillors in Council's electronic document records management system.

Limits on Requests for Advice or Information

In accordance with section 170A(4) of the *Local Government Act 2009* councillors may not ask for Advice or Information that:

- will place an unreasonable burden on Council's resources; or
- is a record of the Councillor Conduct Tribunal; or

- was a record of a Former Conduct Review Body; or
- if disclosed to the councillor, would be contrary to an order of a Court or Tribunal; or
- would be privileged from production in a legal proceeding on the ground of legal professional privilege; or
- is a record in relation to an Employee's recruitment and performance, with the exception of the recruitment and performance of the Chief Executive Officer; or
- is considered to be outside the scope of a councillor's official duties.

Advice or Information that is subject to confidentiality obligations under legislation and cannot be disclosed to councillors by specific obligations imposed by that legislation will not be provided. For example, this includes but is not limited to, information that may be protected by the *Information Privacy Act 2009*, *Crime and Corruption Act 2001*, *Public Interest Disclosure Act 2010* and the *Food Act 2006*.

Other than in accordance with these Guidelines, councillors will not:

- direct, or attempt to direct an Employee (except for the Mayor, who is entitled to direct the CEO in accordance with section 170 of the *Local Government Act 2009*);
- behave towards Employees in an overbearing or threatening manner;
- coerce or entice, or attempt to coerce or entice, any Employee to do anything that does not comply with these Guidelines;
- unduly disrupt an Employee:
 - undertaking routine employment obligations;
 - during meal breaks; or
 - in the workplace ie. lengthy, unscheduled discussions with an Employee in the corridor or unplanned attendance at an Employee's work station;
- place, or attempt to place, any 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; and
- direct or pressure an Employee in relation to their work or recommendations they should make or action they should take.

The following are not requests for Advice or Information:

- a request to the Chief Executive Officer to arrange for an Employee to attend a meeting with a member of the public; and
- a request about a routine operational matter (for example, the location of a meeting the councillor is to attend).

Emergency Situations

Other than in emergency situations (as per the following paragraph), councillors are not to contact an Employee outside normal office hours other than with the prior approval of the Employee's Manager, Group Manager or the Chief Executive Officer.

Where an emergency situation occurs after hours, councillors may contact one of the following:

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- Chief Executive Officer;
- Group Manager; or
- Manager.

If an after-hours matter is of a non-emergency operational nature, councillors will defer the matter for consideration until during normal office hours.

Use of Advice or Information by Councillors

It is an offence for councillors to use Advice or Information that was acquired as a councillor to:

- gain, directly or indirectly, a financial advantage for themselves or someone else; or
- cause detriment to Council.

This does not apply to Advice or Information that is lawfully available to the public.

A councillor must:

- avoid the release of personal information in breach of the *Information Privacy Act 2009*; and
- not release information that the councillor knows, or should reasonably know, is information that is confidential to Council.

Administrative Support

Council is responsible for the provision of appropriate administrative support to ensure that councillors are able to undertake their official duties to a standard appropriate to fulfil their role for the community. The provision of administrative support is for the sole use of councillors in undertaking their duties and should be utilised responsibly and appropriately for Council business.

The Chief Executive Officer nominates the Executive Support Officer to the Chief Executive Officer and Councillors as the primary point of contact for councillors and to provide day to day administrative support for them relating to their official duties including:

- managing their calendars and appointments;
- answering phone calls and emails;
- drafting correspondence;
- record keeping;
- assistance in preparing for Council meetings; and
- travel arrangements.

Administrative support shall be provided during ordinary business hours only unless the Chief Executive Officer has given prior approval.

The Employees providing administrative support will continue to report to and follow directions from the Chief Executive Officer.

Giving Direction to Employees

The Mayor may give a direction to the Chief Executive Officer in accordance with section 170 of the *Local Government Act 2009*. A direction may not be given by the Mayor to the Chief Executive Officer if:

- it is inconsistent with a resolution, or a document adopted by resolution, of Council; or
- it relates to the appointment of an Employee under section 196(3) of the *Local Government Act 2009*; or
- it relates to disciplinary action by the Chief Executive Officer in relation to an Employee under section 197 of the *Local Government Act 2009* or a Councillor Advisor; or
- it would result in the Chief Executive Officer contravening a provision of an Act.

The Chief Executive Officer must keep a record and make available to Council each direction given by the Mayor.

No councillor, including the Mayor, may give a direction to any other Employee, except in the provision of administrative support. The direction must relate directly to administrative support to be provided by the Employee to the councillor under these Guidelines. Councillors cannot ask administrative support staff to:

- carry out tasks not directly related to Council business;
- attend any internal or external meetings or events as a councillor representative; or
- assist with a councillor's re-election or other campaigning tasks.

A direction purportedly given by a councillor to an Employee is of no effect if the direction does not comply with these Guidelines.

Administrative Complaints

Council's Complaints Management Policy outlines the process for dealing with administrative action complaints. An administrative action complaint is defined as a complaint about Council's:

- decision, or failure to make a decision (including failure to provide a written statement of reasons for a decision);
- act, or failure to do an act;
- formulation of a proposal or intention; or
- making of a recommendation.

Councillors who receive administrative action complaints from members of the public should forward the complaint to the Governance and Property team using the complaints inbox – complaints@lvrc.qld.gov.au.

Complaints

Councillors should inform the Chief Executive Officer should they believe an Employee has not appropriately responded to a request for Advice or Information. Under no circumstances is it acceptable for a councillor to directly contact an Employee regarding a complaint about their request for Advice or Information.

Breach of Policy

An allegation of a breach of these Guidelines by a councillor may constitute a breach of the Code of Conduct for Councillors in Queensland and should be made to the Chief Executive Officer. The Chief Executive Officer will deal with the allegation in accordance with Chapter 5A Part 3 of the *Local Government Act 2009* and refer it to the Office of the Independent Assessor for investigation and action, or investigate it in accordance with Council's Investigations Policy, as appropriate.

Human Rights

Council is committed to respecting, protecting and promoting human rights. Council has an obligation under the *Human Rights Act 2019* to give proper consideration to human rights when making a decision, and to act and make decisions in a way that is compatible with human rights. To the extent that an act or decision under this policy may engage human rights, Council will have regard to the *Human Rights Act 2019* in undertaking the act or making the decision.

Relevant Legislation

Information Privacy Act 2009

Local Government Regulation 2012

Public Sector Ethics Act 1994

Right to Information Act 2009

Related Documents

Code of Conduct for Councillors in Queensland

Councillor Involvement in Development Applications Policy

Employee Code of Conduct

Investigations Policy