



Councillors' Acceptable Requests Guidelines for Advice or Information Policy

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1 Objectives

This Policy establishes guidelines for Councillors and Council Officers in relation to the provision of Advice or Information to assist Councillors to carry out their responsibilities under the *Local Government Act 2009* (the Act) and the reasonable limits on requests that a Councillor may make.

2 Regulatory Authority:

- *Local Government Act 2009*
- *Public Interest Disclosure Act 2010*
- *Information Privacy Act 2009*

The following provisions of the *Local Government Act 2009* (the Act) apply:

Section 170 Giving directions to local government staff

- (1) *The mayor may give a direction to the chief executive officer or senior executive employees.*
- (2) *No councillor, including the mayor, may give a direction to any other local government employee.*

Section 13(3)(f) Responsibilities of local government employees

Section 13(3)(f) provides that the Chief Executive Officer has a responsibility for complying with requests from Councillors under section 170(A):

- (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 170(A) Requests for assistance or information

- (1) *A councillor may ask a local government employee to 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, request 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) *Subsection (2) does not apply to information—*
- (a) *that is a record of the regional conduct review panel or the tribunal; or*
 - (b) *if disclosure of the information to the councillor would be contrary to an order of a court or tribunal; or*
 - (c) *that would be privileged from production in a legal proceeding on the ground of legal professional privilege.*
- (4) *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.*
- (5) *Subsection (4) does not apply to –*
- (a) *the mayor; or*
 - (b) *the chairperson of a committee of the council if the request relates to the role of the chairperson.*
- (6) *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.*
- (7) *In this section a local government employee includes a person prescribed under a regulation.*
- (8) *The chief executive officer must make all reasonable endeavours to comply with a request under subsection (2).*

Maximum penalty for subsection (8)—10 penalty units.

3 Policy Statement

It is impractical for all Councillor requests for Advice or Information to be directed to the Chief Executive Officer.

In addition, it is not appropriate for Councillors to have complete unfettered access to all Council staff for seeking Advice and Information, so as to avoid:

- a) Undue interruption to normal administrative operations;
- b) Provision of inaccurate, erroneous or unauthorised Advice and Information;
- c) Undue influence being exercised on staff administrative discretion.

This policy establishes Acceptable Requests Guidelines enabling the efficient delivery of Advice or Information to Councillors.

4 Scope

This Policy applies to all Councillors and Council Officers.

Under this policy, The Mayor may seek advice or information at any time.

This Policy does not override an individual Councillor's statutory obligations in respect of the use of information, nor does it override Council's obligations under the Act or any other legislation or subordinate legislation to disclose or publish information where this is required by law.

Although the Local Government Act permits Committee Chairpersons to be exempted from Acceptable Request Guidelines when seeking advice or information about the role of the Chairperson, Council's Code of Conduct requires Councillors generally in their role as Committee Chair to observe the intention of the Acceptable Request Guidelines when seeking to access advice or information from Council officers.

5 Request Guidelines

5.1 General

A request for Advice or Information by a Councillor must:

- (a) Be made in accordance with Section 170A of the Act;
- (b) Comply with the law and Council policies, procedures and guidelines;
- (c) Comply with Council's Code of Conduct;
- (d) Not include a request for Advice or Information that would, if disclosed, constitute a breach any confidentiality obligations under legislation (for example, the Information Privacy Act 2009, Crime and Corruption Act 2011, Public Interest Disclosure Act 2010);
- (e) Be made in good faith;

When making requests for Advice or Information Councillors must:

- (a) Be respectful, reasonable and professional their manner;
- (b) Not place or attempt to place any employee in a position that would create a conflict of interest for the Council Officer, or that would compromise the integrity and honest performance of the Council Officer;
- (c) Not direct or pressure Council Officers in relation to their work;
- (d) Not unduly disrupt Council Officer's routine employment obligations or scheduled meal breaks

Councillors must consider any likely cost implications in making requests for Advice or Information. Where the costs of providing the advice or information are likely to be high, the Councillor may make the request only to the Chief Executive Officer, who is authorised by Council to seek to minimise the costs of providing the advice.

A Councillor must assess any risk associated with relying on verbal Advice given by a Council Officer. The Councillor should give consideration as to the level of knowledge, experience and authority of the Council Officer to give the advice and should seek alternative advice from other sources where appropriate.

5.2 Types of Requests

Councillors may request:

- Advice from a Council Officer to assist the Councillor carry out their responsibilities; or
- Information to which Council has access and relating to the Council's business.

Councillors may not access:

- Records of the regional conduct review panel or the tribunal;
- Information contrary to an order of a court or tribunal; or
- Information covered by legal professional privilege where still active.

5.3 How Requests for Advice or Information May be Made

Council's administrative arrangements include a "Red Box Structure" that identifies Council Officers from whom Councillors can request Advice or Information. The Chief Executive Officer is authorised to maintain and amend the "Red Box Structure" from time to time to ensure the most accurate and up-to-date information is provided.

Each Council departmental "Red Box Structure" contains designated officers whom Councillors may contact directly to obtain Advice and Information about certain topics and/or certain levels of detail. Definitions of relevant topics and levels of detail are provided for each designated officer/position.

5.3.1 Request for Advice and Information

Requests by Councillors for Advice and Information can be made to the Council Officers as identified in the "Red Box Structure" and for the topics and level of detail nominated:

A Councillor may request Advice either:

- (a) Verbally; or
- (b) In writing, directly to the Council Officer; or
- (c) By submitting a request to a Department's "Requests" email address and c/c the Chief Executive Officer (where appropriate), Chief Operating Officer and/or the relevant Third Level Manager or Council Officer.

When submitting a request for Advice or Information a Councillor must comply with any reasonable requirements of the Council Officer to either:

- (a) Submit their request in writing (e.g. letter, memo, facsimile or email); or
- (b) Clarify the purpose of their request.

5.3.2 After Hours Requests for Advice

Councillors should refrain from directly contacting Council Officers outside scheduled working hours regarding normal operational matters. Where a matter arises after-hours and is of such urgency that to delay provision of the Advice or Information will bring harm to the Council or damage the reputation of Council, Councillors may contact the Chief Executive Officer or the relevant Chief Operating Officer, who will determine the most appropriate manner for obtaining a response for the Councillor.

If the matter is of a general operational nature, Councillors are to log a request through Council's after-hours contact number or email.

5.3.3 Requests regarding Councillor Matters

Councillor requests for Advice or Information about Councillor Matters are to be made to the Chief Executive Officer in writing. If the request is about matters relating to another Councillor, the Councillor the subject of the request is to be notified of the name of the requestor, the requested Advice or Information and subsequently of the Advice or Information given.

Requests concerning Councillor Matters will be finalised on the basis of existing Council information

5.4 Responses to Requests

5.4.1 Timeframe for Responses

The Chief Executive Officer, Chief Operating Officer, Third Level Manager or Council Officer should initially respond to a Councillor request within 2 working days. Where the Council Officer is unable to provide the requested advice or information within that timeframe, an acknowledgement or interim response is to be given together with reasons for the delay.

Where a Councillor is dissatisfied with the response of a Council Officer or a refusal to comply with a request, they may escalate their request to the relevant Chief Operating Officer or the Chief Executive Officer for review.

5.4.2 Provision and Recording of Responses

Responses to requests for Advice or Information can be verbal or in writing. If verbal, Council Officer's should record the conversation in a file note.

Any written requests for Advice or Information and responses must be registered in Council's Corporate Document Management System.

If a Council Officer is uncertain about responding to a Councillor request for Advice or Information they may refer the matter to their supervisor, Chief Operating Officer or Chief Executive Officer.

5.4.3 Restricted Distribution

Council Officers are not to copy in other Council Officers to a response or on forward a response from a Councillor to other Councillors or Council Officers unless:

- (a) Those recipients are already part of the communication thread; or
- (b) It becomes necessary to involve the other Councillor/s or Council Officers in a consultation or decision making process; or
- (c) For the purpose of informing their supervisor of the request.

Council Officers are also not permitted to distribute a request for Advice or Information or a response to a request from a Councillor to any other individual or entity external to Council, unless the Councillor has formally requested or approved the distribution.

The provision of personal information about any individual to Councillors will be provided in accordance with the guidelines concerning private and personal information provided by the Office of Information Commissioner.

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

5.4.4 Reporting of Request

Each Chief Operating Officer is to determine their own Departmental procedure for Council Officers to keep supervisors and themselves aware of Councillor requests for Advice or Information.

It is the responsibility of the Chief Operating Officer to advise the Chief Executive Officer in a timely manner of any issues concerning the management of Councillor requests for Advice or Information that require CEO intervention.

It is the responsibility of the Chief Executive Officer to advise the Mayor in a timely manner of any issues concerning the management of Councillor requests for Advice or Information that require Mayoral intervention.

5.5 Limits on Requests

Requests must not take the form of an attempt to direct or unduly influence the Chief Executive Officer, Chief Operating Officer or Council Officer to prepare a response in a certain manner.

Council Officers may refuse to respond to requests for information or advice where:

- (a) It is contrary to this Policy;
- (b) Supply of the information would breach section 170(a)(3) of the Act;
- (c) The information relates to a public interest disclosure (as defined in the *Public Interest Disclosure Act 2010*);
- (d) The Advice requested would disclose the employment records of a particular Council Officer, including records contained on a past or present Council Officer's personnel file, and/or personal information collected for payroll purposes (including but not limited to an officer's bank accounts details, child support deductions, tax file number etc);
- (e) The release of the Advice to the Councillor would breach any statutory confidentiality obligations (for example, the Information Privacy Act 2009, Crime and Corruption Act 2001, Public Interest Disclosure Act 2010, Workers' Compensation and Rehabilitation Act 2003).
- (f) The information is not reasonably available to the officer;
- (g) The Council Officer does not feel qualified to provide the requested advice;
- (h) The Council Officer is not satisfied that the information is required to assist the Councillor carry out his or her responsibilities under the Act; or
- (i) The use of resources required to produce the Advice or Information is disproportionate to the reasonable value of the advice or information sought.

In such circumstances the officer concerned must report the refusal to respond to the relevant Chief Operating Officer or Chief Executive Officer. The officer should consult with their supervisor or Chief Operating Officer prior to advising a Councillor of their intention to refuse the request.

5.6 Use of Information by Councillors

Councillors receiving Advice or Information under this Policy must not:

- release personal information in breach of the *Information Privacy Act 2009* ; and
- release information, that the Councillor knows, or otherwise should reasonably know, is information that is confidential to the Council (s. 171(3) of the Act).

In accordance with Section 171(1) of the Act, Councillors (current or former) must not use information acquired as a Councillor to:

- Gain, directly or indirectly, financial advantage for the themselves or someone else; and/or
- Cause detriment to Council.

5.8 Breaches to the Policy

An allegation of a breach of this Policy by a Councillor will be dealt with in accordance with Section 176-182 of the Local Government Act 2009.

6 Definitions

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 the Local Government Act 2009; and
- (b) reasonable limits on request that a councillor may make.

Advice means advice to assist a Councillor to carry out his or her responsibilities under the Act and may include the provision of documents or access to documents in Council's possession.

Councillor Matter means matters identifying and pertaining to a Councillor, with the exception of:

- a request by a Councillor for Advice, Information or Council Record about themselves;
- social matters, incidental matters or other matters not relating to Council business.

Council Officer means an employee of Ipswich City Council.

Chief Operating Officer means a Chief Operating Officer, Chief Financial Officer, City Planner and General Counsel and City Solicitor of Ipswich City Council including persons temporarily acting in those positions reporting directly to the Chief Executive Officer.

Information means information, including documents or records held by Council in printed or electronic form, that the Council has access to which relates to the Council.

Personal Information has the meaning defined in the *Information Privacy Act 2009*.

Public Interest Disclosure has the meaning as defined in the *Public Interest Disclosure Act 2010*.

Reasonable requests are request which in the opinion of the Chief Executive Officer will not require excessive or un-warranted use of Council resources.

Third Level Manager means a Branch Manager or Principal Officer that reports directly to a Chief Operating Officer

7 Policy Author

Corporate Services and Risk Manager

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