

5.10. ACCEPTABLE GUIDELINE REQUEST

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DEPARTMENT Governance

RECOMMENDATION

That Council:

- 1. Revoke the Councillor and Staff Interaction Protocol General Policy,**
 - 2. Adopt the Acceptable Guidelines Request Policy as presented.**
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EXECUTIVE SUMMARY

The Acceptable Guidelines Request Policy will be presented for consideration and adoption by Council.

BACKGROUND

With the passing of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* on 21 May 2018, the *Local Government Act 2009* provided for a more effective and streamlined system for dealing with Councillor complaints and imposes a mandatory Code of Conduct for Councillors.

With the passing of the Amendment to the *Local Government Act 2009* on 18 November 2019, the Act provided for further updates for an effective system for the way in which a Councillor may ask a Council employee for advice or information to help the Councillor carry out his or her responsibilities and the reasonable limits on requests that a Councillor may make.

COMMENT

This Policy was previously called the Councillor and Staff Interaction Protocol General Policy. To ensure that Council policy aligns with the statutory requirements of the Local Government Act 2009, the name has been changed to Acceptable Guideline Requests Policy.

In light of recent legislative amendments and to ensure a continuation of statutory compliance and best practice, the Acceptable Guidelines Request Policy is submitted for consideration and adoption by Council.

PROPOSAL

The Council:

1. Revoke the Councillor and Staff Interaction Protocol General Policy,
2. Adopt the Acceptable Guidelines Request Policy as presented.

FINANCIAL/RESOURCE IMPLICATIONS

There are no identified financial implications in relation to this matter.

RISK MANAGEMENT IMPLICATIONS

Adoption and adherence to Policies and Processes consistent with legislative requirements minimizes the risk of non-compliance decisions and actions of Councils and its officer.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

Goal 1 - *We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

Operational Plan 2019-2020 Actions:

5.2.3 - *Implement continuous improvement program.*

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Advocate	Council makes representation on behalf of the community on important issues, funding opportunities, projects and programs. Council will use its influence to seek the best outcomes for the community.
Regulator	Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

CONSULTATION

Internal: Councillors, CEO and Management Team

External: Nil

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

1. Acceptable Request Guidelines [**5.10.1** - 3 pages]

1. Acceptable Request Guidelines - Statutory

Scope

This policy is applicable to all Councillors and Council employees, including contractors and volunteers of Douglas Shire Council and provides guidelines that enable the efficient delivery of advice to Councillors by establishing rules for Councillor Requests for advice.

Objectives

To provide clear guidelines to Councillors and staff in instances when Councillors need to make requests for assistance or advice.

Policy Content

The Local Government Act 2009 enables the Council to adopt guidelines about the way in which a Councillor may ask a Council employee for advice or information to help the Councillor carry out his or her responsibilities and the reasonable limits on requests that a Councillor may make.

When seeking advice or information from Council staff, Councillors are required to abide by the Acceptable Request Guidelines.

Standards and Procedures

All Councillors have the right to seek advice or information from employees to help them carry out their official duties. Employees must respect the governance role of elected officials and provide them with information and advice in accordance with these guidelines.

Councillors Giving Direction to Employees

Pursuant to S170 (1) of the *Local Government Act 2009*, the Mayor may give direction to the Chief Executive Officer. A direction must not be inconsistent with a Council resolution, or a document adopted by resolution, of the Local Government.

Pursuant to s170 (3) of the *Local Government Act 2009*, no Councillor, including the Mayor, may give a direction to any other local government employee. Contravention of this is misconduct that could result in disciplinary action being taken against a councillor as per S150L (c)(iv), 150 AQ and 150 AR of the *Local Government Act 2009*.

Where a Councillor including the Mayor, attempts to give direction to an employee, the employee is not required to act on those directions, and must inform the Chief Executive Officer of this direction, either directly or through the employee's Manager.

Councillors Seeking advice or information

Councillor requests for advice from Council employees must comply with the following requirements:

- Requests for advice must be made in a professional manner.
- In requesting advice, Councillors must not direct or pressure Council employees in relation to their work or recommendations they should make.
- In requesting advice Councillors must not behave towards employees in an overbearing or threatening manner.

Requests for advice must be directed as follows:

- Councillors' requests for advice must be made in writing or email through the RFI Department.
- Councillors may request help or advice of a nature given to the public, and under the same conditions as above.
- Councillors must direct all other requests for advice to the Chief Executive Officer or the Relevant Manager.

Employees Responsibilities

Communication by employees with Councillors must be conducted:

- In a respectful, reasonable and professional manner;
- In accordance with the law and the Local Government Principles;
- In accordance with Councils policies, guidelines and procedures;
- In accordance with Council's Corporate/Community Values - Accountability, Integrity, Inclusive, Ethical and People Focused.
- If a Councillor contacts an employee in contravention of this Policy, then the employee should refer the request to the Chief Executive Officer.
- Employees must reasonably ensure that any information that is provided is accurate and correct, and provided in a timely manner.
- If an employee is of the opinion that the information requested is unreasonably complex or onerous to fulfil and will significantly divert them from their regular duties, the employee shall seek advice from their Manager or the Chief Executive Officer as soon as possible.
- Governance Department shall keep records of advice given to Councillors in the same manner as they were providing advice to a member of the public (Register of Request).
- No employee, other than the Chief Executive Officer is entitled to distribute commercial in confidence information or data to a Councillor.
- Employees shall not discuss with a Councillor any matters relating to the terms and conditions of their employment with Council.
- Employees shall inform the Chief Executive Officer if they believe a Councillor has behaved in a manner contrary to this policy.

Response Times to Requests for Assistance or Information

1. The Chief Executive Officer must comply with a request made under s170 (1) & (2) of the *Local Government Act 2009*.
 - a. Made 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 – within 20 business days after receiving the request.

Handling of Information

Councillors and Employees will acknowledge that the information provided in relation to a request may be confidential and that they must adhere to the *Local Government Act 2009*, the *Information Privacy Act 2009* and relevant Acts and Regulations relating to privacy when they are in receipt of information that may affect individuals, organisations, Council or provides an unfair advantage.

If a Manager has concerns about a request in relation to confidentiality or sensitivity of the information, the officer must report the circumstance to the Chief Executive Officer. The Chief Executive Officer will review and determine an outcome for the request and will advise the Manager.

Related Legislation

Local Government Act 2009
Information Privacy Act 2009
Right to Information Act 2009
Public Records Act 2002
Crime and Corruption Act 2001

Related Documents

Employee Code of Conduct – Doc No #824545
Councillor Code of Conduct – Doc No #809871
Acceptable Request Guidelines Flowchart – Doc No# 418318

Definitions

TERM	DEFINITION
Employee	An employee, contractor, volunteer of the Douglas Shire Council
Manager	Employee who at the time, has been determined by the Chief Executive Officer to be a member of the Executive Management Team (reports direct to the CEO)
Requests	Request by a Councillor for information, action or advice

Policy Review

This policy is to be reviewed annual/whenever legislation changes, or every 2 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

Policy Name	Acceptable Request Guidelines
Policy Number	1
Policy Version	1
Document Number	932056
Endorsed by	Chief Executive Officer
Policy Type	Statutory
Approval Authority	Council
Date Adopted	Date adopted at Council
Time Period	Annually
Review Date	Approx. 3 months prior to next election (2024)
Policy Department	Governance
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	Councillor/Staff Interaction Protocol General Policy