

6.4. REVIEW OF ACCEPTABLE REQUEST GUIDELINES POLICY 2023

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RECOMMENDATION

That Council adopts the Acceptable Request Guidelines Policy

EXECUTIVE SUMMARY

The Acceptable Requests Guidelines Policy provides guidelines about the way in which a councillor may ask a council employee for advice or information to help the councillor carry out their responsibilities under the *Local Government Act 2009* (the LGA).

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

(7) 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.

BACKGROUND

S 170A (1) of the LGA is very clear that “a councillor may ask a local government employee to provide advice to assist the councillor to carry out his or her responsibilities under the Act.

S170A (2) states “a councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information, that the local government has access to, relating to the local government”.

COMMENTS

Recent advice was received from the Office of the Independent Assessor indicating that they believed there was a contradiction within the existing policy which should be reviewed to remove any ambiguity as to what is acceptable when a Councillor is requesting ‘advice’ or ‘information’ from council.

The amendments that are proposed have been included to remove that ambiguity.

PROPOSAL

That Council adopts the Acceptable Requests Guidelines Policy.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications. Resource implications, which are included in the legislation and the policy, include council staff meeting timeframes to respond to requests from councillors.

RISK MANAGEMENT IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Nil

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 2022-2023 Actions:

Legislative requirement.

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:

Information Provider Council provides the community with important information on services, events, policies, rules, strategies, and any other relevant data that helps the community to stay informed. In performing this role, Council seeks to be open and transparent.

CONSULTATION

Internal: Management Team meeting held on 10 May 2023.
Councillor workshop held on 11 July 2023.

External: Office of the Independent Assessor.
King and Company.

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

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1. ACCEPTABLE REQUEST GUIDELINES

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

These Guidelines are about:

- The way in which a Councillor may ask a Council employee for advice to help the Councillor carry out their responsibilities under the Act; and
- The way in which a Councillor may ask the Chief Executive Officer for information relating to the local government.

These Guidelines do not override an individual Councillor's statutory obligations under the *Local Government Act 2009* (the Act), including in respect to the use of information under s 171 of the Act.

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. A request by a Councillor is of no effect if the request does not comply with the Acceptable Requests Guidelines.

Standards and Procedures

All Councillors have the right to seek advice from employees or information from the Chief Executive Officer to help them carry out their official duties. Employees must respect the governance role of elected officials and provide them with advice and information 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(1)(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 or information from Council employees must comply with the following requirements:

- Councillors' requests for advice or information must be made in writing or email through the RFI process.
- Urgent requests for advice must be directed to the Chief Executive Officer or the appropriate Manager to whose Department the request refers (note in Definitions) and confirmed in writing for records purposes.
- Urgent requests for information must be directed in writing to the Chief Executive Officer.
- In accordance with s 170A (6) of the *Local Government Act 2009*, the Mayor is not required to comply with the acceptable requests guidelines when seeking advice from employees or information from the Chief Executive Officer.
- Requests for advice must be made in a professional manner.
- Councillors requests for advice or information 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.
- Councillors may request help or advice of a nature given to the public, and under the same conditions as above.

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

The Chief Executive Officer must comply with a request made under s170A (1) & (2) of the *Local Government Act 2009*:

- Made within 10 business days after receiving the request; or
- 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 Management Team (reports direct to the CEO). <ul style="list-style-type: none"> • Manager Environment and Planning • Manager People and Community Services • Chief Financial Officer • Manager Governance • Manager Infrastructure • Manager Water and Wastewater • Manager Projects
Requests	Request by a Councillor for advice or information.

Policy Review

This policy is to be reviewed 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	25 July 2023
Time Period	2 Years
Review Date	25 July 2025
Policy Department	Governance
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	