

COUNCILLOR ACCEPTABLE REQUEST GUIDELINES POLICY

STATUTORY POLICY



1 Scope

This policy applies to Councillors and employees of Rockhampton Regional Council.

2 Purpose

The purpose of this policy is to provide clear guidelines when a Councillor asks an employee for advice, to assist them carry out their responsibilities and when they ask the CEO to provide information, that the Council has access to, relating to Council.

3 Related Documents

3.1 Primary

Local Government Act 2009

3.2 Secondary

Public Sector Ethics Act 1994

Code of Conduct

4 Definitions

To assist in interpretation, the following definitions apply:

Advice/Information	Information and advice includes details of what Councillors and employees are doing; any administrative, legal, financial, technical or statistical information held by Council and options available to achieve a particular thing.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Council	Rockhampton Regional Council
Councillor/s	The Mayor and Councillors of Council, within the meaning of the <i>Local Government Act 2009</i> .
Direction	Direct, or otherwise influence, another person to carry or instigate an action.
ECM	Enterprise Content Management, Council's corporate recordkeeping system.
Emergency Situation	A matter that may cause harm to Council or the community, or damage the reputation of Council if not dealt with promptly.
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .

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Former Conduct Review Body	As defined in the <i>Local Government Act 2009</i> , a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal under this Act as in force before the commencement of the <i>Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018</i> , section 18.
Manager	Employee appointed to a position delegated a corporate band 3.
Mayor	The Mayor is an elected member of Council, also referred to as a Councillor, with additional responsibilities as outlined in section 12(4) of the <i>Local Government Act 2009</i> .
Pathway	Pathway Request Module. Council's customer request/enquiry and complaints system.
Senior Executive Employee	As defined in the <i>Local Government Act 2009</i> . A local government employee: (a) Who reports directly to the CEO; and (b) Whose position ordinarily would be considered to be a senior position in the local government's corporate structure. This includes a person acting in this position. Senior executive employees within Council consists of the Deputy Chief Executive Officer and general managers.

5 Policy Statement

The following protocol guides all day-to-day communication between Councillors and employees. This policy should not be used as an alternate procedure for dealing with customer enquiries. Initial customer enquiries should be directed to the Customer Service Centre or Executive Support Officers. Customer service requests should be entered into Pathway on behalf of the Councillor, rather than directly referring requests to an individual employee.

5.1 Requests for Advice or Information

Communication between Councillors and employees must:

- (a) Be conducted in accordance with section 4(2) of the *Local Government Act 2009*;
- (b) Comply with the law and Council policy documents;
- (c) Be conducted in good faith; and
- (d) Be conducted in a respectful, reasonable and professional manner.

Councillors may request advice or information from employees who are a manager, senior executive employee or CEO. Where these nominated employees are not available, another suitably qualified employee may provide the advice or information requested subject to the following paragraph.

Councillors may be given approval by the CEO or senior executive employee to request advice and information from an employee other than the nominated employees, in specific circumstances. In these circumstances, written approval will be provided to both the Councillor and employee.

Councillors may request from an employee advice or information that would ordinarily be given to the public (for example with a Customer Service Officer at a Customer Service Centre).

Councillors may request, in writing, access to confidential information through the relevant manager, senior executive employee or CEO.

The CEO must comply with a request made by a Councillor within 10 business days. If the CEO reasonably believes that is not practicable, they must advise of that belief and the reasons for the belief within 10 business days and then comply with 20 business days after receiving the request.

A Councillor's decision to rely on verbal advice given by an employee will be at the discretion of the Councillor. Any such decision should be made with due regard to the level of knowledge and experience of the employee and alternative advice available from other sources.

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Councillor's use of any advice or information obtained is specifically constrained by section 171 and 171A of the *Local Government Act 2009*.

Councillors must consider any likely cost implications in making requests for advice or information, and will not make requests where the costs cannot be justified as being in the public interest. If the cost of providing information is likely to be high, the Councillor may make the request only to the CEO, who is expressly authorised by the Council to seek to minimise the costs of providing the advice.

5.2 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 and CEO or senior executive employee.

When an emergency situation occurs after hours, Councillors may contact one of the following:

- (a) CEO;
- (b) Senior executive employee; or
- (c) 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. Otherwise, Councillors must log a request through the general Council phone number.

5.3 Exemptions to this Policy

In accordance with section 170A(4) of the *Local Government Act 2009* Councillors may not ask for information:

- (a) That is a record of the Councillor Conduct Tribunal; or
- (b) That was a record of a former conduct review body; or
- (c) If disclosure of the information or document to the Councillor would be contrary to an order of a court or tribunal; or
- (d) That would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Councillors cannot request information which has confidential obligations under legislation and cannot be disclosed to Councillors by specific obligations imposed by that legislation (for example, the *Information Privacy Act 2009*, *Crime and Corruption Act 2001*, *Public Interest Disclosure Act 2010*, *Food Act 2006*).

Other than in accordance with this policy, Councillors will not:

- (a) 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*);
- (b) Behave towards employees in an overbearing or threatening manner;
- (c) Coerce or entice, or attempt to coerce or entice any employee to do anything that does not comply with this policy;
- (d) Unduly disrupt an employee:
 - (i) Undertaking routine employment obligations;
 - (ii) During meal breaks; or
 - (iii) In the workplace i.e. lengthy, unscheduled discussions with an employee in the corridor or unplanned attendance at employee's work station;
- (e) 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

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- (f) Direct or pressure an employee in relation to their work or recommendations they should make or action they should take.

A Mayoral direction may be given to the CEO in accordance with Mayoral responsibilities outlined in section 12(4)(c) of the *Local Government Act 2009*.

The Mayor is exempt from this policy when seeking advice or information at any time.

A Committee Chairperson is exempt from this policy when seeking advice or information in relation to that Chair's portfolio.

A Councillor may request the CEO or senior executive employee to arrange for an employee to attend a meeting with a member of the public. Such a request is not a request for advice.

A request about a routine operational matter from a Councillor (for example, the location of a meeting) is not a request for advice.

5.4 Complaints

Where Councillors are dissatisfied with the response from an employee, for a request for advice or information, the Councillor may report their dissatisfaction to the relevant senior executive employee. Councillors may seek a further review if they are dissatisfied with the senior executive employee's response, by putting their concerns in writing to the CEO.

5.5 Employees

All employees are bound by Council's Code of Conduct, the *Local Government Act 2009* and the *Public Sector Ethics Act 1994* principles. Employees will seek to maintain and enhance public confidence in the integrity of public administration and to advance the common good of the community.

Specifically, employees will not:

- (a) Use information acquired as an employee to gain, directly or indirectly, an advantage for themselves (or someone else); or to cause detriment to the Council;
- (b) Release information that the employee knows, or should reasonably know, is information that is confidential to Council, and which the Council wishes to keep confidential; and
- (c) Improperly use, or allow the improper use of, their official powers or position.

Employees must keep records of advice given to Councillors, as they would do when advising a member of the public. This should be recorded electronically in ECM.

Employees must ensure that any conflict that may arise between their personal interests and their official responsibilities is resolved in favour of the public interest.

Where an employee is uncertain about whether or not they should respond to a Councillor enquiry, or how to respond to a Councillor enquiry, they must not provide a response, but rather refer the matter to their senior executive employee or CEO.

If a Councillor behaves inappropriately or asks for information or advice outside of this policy, the employee must inform their manager, senior executive employee or CEO about the request as soon as is practicable.

5.6 Breaches to the Policy

An allegation of a breach of this policy by a Councillor (including the Mayor) may constitute a breach of the Councillor Code of Conduct and will be referred to the Office of the Independent Assessor, for investigation and action as appropriate.

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6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) As required by legislation;
- (b) The related information is amended or replaced; or
- (c) Other circumstances as determined from time to time by Council.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Chief Executive Officer
Policy Owner	Deputy Chief Executive Officer
Policy Quality Control	Legal and Governance



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