



# Gladstone Regional Council

## Council Policy

<b>Title</b>	<b>COUNCILLOR ACCEPTABLE REQUEST GUIDELINES</b>
<b>Policy Number</b>	<b>P-2018-32</b>
<b>Business Unit/s</b>	<b>FINANCE GOVERNANCE AND RISK</b>
<b>Date of Adoption</b>	<b>4 DECEMBER 2018</b>
<b>Resolution Number</b>	<b>G/18/3592</b>
<b>Review Date</b>	<b>4 DECEMBER 2021</b>
<b>Date Repealed</b>	

### 1.0 PURPOSE:

The purpose of this policy is to outline Acceptable Request Guidelines for Councillor requests for advice or access to information of Council officers as required by section 170A(6) of the *Local Government Act 2009*.

### 2.0 SCOPE:

This policy applies to all Councillors and also applies to all Council officers insofar as this policy sets out procedures to be followed by Council officers in their dealings with Councillors under this policy.

As this policy has been adopted by resolution of Council, Council accordingly considers this policy to be “*procedures*” as that term is used in section 176(4) of the *Local Government Act 2009*.

### 3.0 RELATED LEGISLATION:

*Crime & Corruption Act 2001*  
*Integrity Act 2009*  
*Local Government Act 2009*  
*Local Government Regulation 2012*  
*Public Sector Ethics Act 1994*

### 4.0 RELATED DOCUMENTS:

Councillor Code of Conduct Policy  
Council Meeting Procedures Policy  
Councillor Complaint Investigation Policy  
Councillor Expenses Reimbursement and Provision of Facilities Policy

### 5.0 DEFINITIONS:

To assist in interpretation of this policy the following definitions apply:

<b>Acts</b>	means all legislation including State legislation and Commonwealth legislation.
<b>Chief Executive Officer</b>	means the chief executive officer (CEO) of Council
<b>Council</b>	means Gladstone Regional Council
<b>Councillor</b>	means a councillor of Council as defined under the <i>Local Government Act 2009</i> and includes the Mayor of Council.
<b>Council Officer</b>	means a local government employee as defined under the <i>Local Government Act 2009</i> identified by position title in this policy.

## 6.0 POLICY STATEMENT:

### 6.1 Background

Section 13(3)(f) of the *Local Government Act 2009* provides that the Chief Executive Officer has the responsibility of:-

- (f) complying with requests from councillors under section 170A—
  - (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 170A of the *Local Government Act 2009* outlines the below provisions in relation to Acceptable Request Guidelines:

- (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<sup>1</sup>, ask the Chief Executive Officer to provide information, that the local government has access to, relating to the local government.
- (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<sup>15</sup>.
- (8) The Chief Executive Officer must make all reasonable endeavours to comply with a request under subsection (2).

Accordingly, the below guidelines are to be followed by Councillors and identified Council Officers as the Acceptable Request Guidelines adopted by resolution of Council.

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<sup>1</sup> Note: No limits have been set by regulation at the time of adoption of this policy and no regulation has been made on this under the Act.

## 6.2 Who Requests Should Go To

Council is of the view that requiring all councillor requests for advice or information to be submitted through the Chief Executive Officer is impractical. Council is also of the view that such requests need to be made of relatively senior Council officers.

Council guidelines as to the way that a Councillor may request advice or request information are provided below<sup>2</sup>.

For clarity these guidelines do not apply when:

- a Councillor:
  - o seeks advice from any Council officer where that matter is a minor matter that requires the Council officer no more than a few minutes of time to address or is advice that is normally provided by that Council officer to any member of the public making a similar query; or
  - o seeks clarification from the Council officer who has authored a briefing paper or report to Council on an aspect of that briefing paper or report; or
- the Mayor gives a direction to the Chief Executive Officer or a senior executive employee<sup>3</sup>.

The Commentary to the Act as prepared by King and Company on behalf of the Local Government Association of Queensland provides a useful insight into the practical application of these provisions.

*“One aspect of that concept is that the CEO and the senior executive officers should have full power and authority to organise the work schedules and work priorities of the officers under their control, and that it should not be possible for a councillor to disrupt those schedules or priorities by asking an employee to devote time to something which the councillor wants done (or wants done sooner rather than later).”*

*Despite the concerns expressed by councillors when the corresponding provision in the 1993 Act was introduced, the regime established by this section has not caused major problems in practice and will not do so as long as the councillors and the CEO have a proper respect for each other's' role and responsibilities and are all genuinely committed to achieving effective local government.”*

To achieve practicality, Councillors may request advice or assistance to assist them in carrying out their roles from the following Council officers:

Department Officer Position	Subject Matter
<b>Office of the CEO</b>	
Chief Executive Officer	Any matter.
Executive Assistants	Minutes, agendas, general assistance, travel & accommodation.

<sup>2</sup> Such requests are beyond requests that may be sought by any member of the community of Council officers. For example - Asking how an animal can be registered is a general request that can be answered by many officers in Council without having to be a Councillor request.

<sup>3</sup> Under section 196 (6) of the *Local Government Act 2009* "A senior executive employee, of a local government, is an employee of the local government—  
 (a) who reports directly to the chief executive officer; and  
 (b) whose position ordinarily would be considered to be a senior position in the local government's corporate structure."

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<b>Strategy &amp; Transformation</b>	
General Manager Strategy & Transformation	Any matter including economic development.
Manager ICT or ICT Specialist	Assistance with computers and telephones.
Strategic Projects Specialist	Strategic Projects
Strategic Grants Specialist	Grants/ funding
<b>Strategic Asset Performance</b>	
General Manager Strategic Asset Performance	Any matter.
Property Acquisition & Disposal Specialist	Council property transactions including leases, sales, acquisitions, etc
Manager Asset Governance	Asset Management framework.
Manager Asset Planning	Infrastructure planning (i.e. Local Government Infrastructure Plan)
Manager Environment & Conservation	Environment and conservation
<b>Community Development &amp; Events</b>	
General Manager Community Development & Events	Any matter.
Manager Brand & Communications	Branding, media, internal and external communications, marketing, social media, digital content, intranet, websites.
Manager & Curator Gladstone Regional Art Gallery & Museum	Arts and cultural activities and initiatives
Manager Regional Libraries	Libraries.
Manager Engagement & Partnerships	Community investment, community engagement, multicultural affairs, community development, seniors, disability and youth programming and development, sport and recreation, public swimming pools.
Manager Events & Entertainment	Community Events, Gladstone Entertainment & Convention Centre
<b>Customer Experience</b>	
General Manager Customer Experience	Any matter.
Manager Development Services	Regulatory functions of planning, building and plumbing assessments, operational works, planning scheme development, trade waste assessment.
Manager Biosecurity & Environmental Health	Environmental health (including food and public health matters), rural land management / biosecurity.
Team Leader Local Laws	Local laws enforcement and animal management.
<b>Operations</b>	
General Manager Operations	Any matter.
Manager Operations Support Services	Fleet vehicles and Council stores / warehouse.
Manager Works Planning & Scheduling	Operational project and program delivery (including maintenance and capital projects).
Manager Contracts & Procurement	Purchasing, tendering and disposal processes.

Manager Roads Program Delivery	Road (and stormwater) operations.
Manager Water Program Delivery	Water (and wastewater) operations.
Manager Waste Program Delivery	Waste (and recycling) operations.
Manager Parks Program Delivery	Parks and cemeteries/crematorium operations.
Disaster Response Specialist	Disaster and emergency management.
<b>Finance, Governance &amp; Risk</b>	
General Manager Finance, Governance & Risk	Any matter.
Manager Governance	Records, Council policies, committees, legal services, local law development, delegations, other governance advice.
Manager Revenue Services	Rating and Revenue matters.
<b>People, Culture &amp; Safety</b>	
General Manager People, Culture & Safety	Any matter.
Manager Health Safety & Wellbeing	Safety matters.

### 6.3 Procedure to be Used for Requests for Advice or Information

Councillor requests from Council officers to assist them carry out their roles, must be made, and will be dealt with, as follows:

1. Councillor requests should be made in writing (e.g. letter, memo, facsimile or email) to a Council officer listed in the table above on matters which directly relate to that officers' duties and responsibilities as set out in the Table.
2. In making a request the Councillor will need to indicate the information or advice required and the reason for seeking access to that information or seeking that advice and any time requirements for receipt of requested information or advice.
3. Where a Councillor is unsure as to what information or advice to request, he or she may contact the Council officer of whom the request is to be made for assistance in clarifying the request.
4. Councillor requests for advice or access to information must not take the form of an attempt to direct or pressure any Council officer to prepare a response in a certain manner<sup>4</sup>.
5. Preference is that the request be made of the Council officer by email or in writing. If verbally requested, the Council officer may reproduce the verbal request in writing and seek confirmation from the Councillor that the written request is a fair representation of the request made by the Councillor.

<sup>4</sup> Such action could constitute misconduct and be dealt with under the misconduct provisions of the Local Government Act 2009.

6. If Councillors have made a similar request of another Council officer they must advise the Council officer of that other request, the name of the Council officer of whom the other request was made and the time when it was made.
7. Council officers identified in this policy are to send a copy of the request to their General Manager (or the CEO where received by the General Manager) for noting and discussion as required.
8. Council officers receiving the request, or being tasked with the request, will respond to the request made in writing or email to the Councillor only if they:
  - a. are of the view that they are appropriately qualified and adequately informed to be able to respond in a competent manner; and
  - b. have adequate resources to handle the request in a timely manner; and
  - c. are satisfied that the handling of the request will not interfere with existing work priorities that have been assigned to them.
9. If the Council officer is of the view that they:
  - a. are not appropriately qualified and adequately informed to be able to respond in a competent manner; or
  - b. do not have adequate resources to handle the request in a timely manner; or
  - c. are not satisfied that the handling of the request will not interfere with existing work priorities that have been assigned to them,they will refer the request to their General Manager or the Chief Executive Officer with a request for allocation of the request to another Council officer.
10. In providing a response the Council officer will:
  - a. provide a copy of the response provided by them to the Councillor, their General Manager and the Chief Executive Officer as well as lodging the details of the response in Council's customer request system; and
  - b. ensure, where a request is for access to information, that the requesting Councillor is provided with access to all relevant information; and
  - c. explain any issues in the information or advice which relate to confidential or other sensitive matters; and
  - d. if appropriate, provide any other information necessary to place the information or advice being provided in context; and
11. The Chief Executive Officer or General Manager may, if in his or her view the advice provided or information provided is incomplete or inaccurate, provide the Councillor with updated advice or access to any required further information.
12. In accessing any information provided to a Councillor as a result of a Councillor request, Councillors are specifically made aware of their obligations under *Section 171 of the Local Government Act 2009 (Use of information by Councillors)* and *Section 171A of the Local Government Act 2009 (Prohibited conduct by councillor in possession of inside information)*.
13. Councillors must inform the Chief Executive Officer if they believe a Council officer of whom a request has been made by them has not appropriately responded to a request.

#### **6.4 Reasonable Limit Guidelines**

Council recognises that it has provided finite resources to the Chief Executive Officer for the undertaking of Council's endeavours as set out in Council's budget and policy documents. The diversion of resources towards the provision of advices or access to information requests from Councillors may, at times, jeopardise the provision of services by Council as the Council officers'

time is taken away from their ordinary duties of implementing Council priorities to address requests from individual Councillors. The extent of the diversion of resources required may be extenuated by either the nature of the request made, the frequency of requests made, the timing of the request or a combination of these factors.

Where responding to a request made by a Councillor for advice or access to information raises concerns with the Council officer that the time involved in responding may create an issue with having to divert resources from existing priorities of Council at the detriment of implementing those priorities, the Council officer will liaise with their General Manager or CEO in the first instance. The General Manager or CEO may seek to negotiate an alternate timing for responding to the Councillor that may allow the request to be responded to without jeopardising the meeting of existing priorities by that Council officer.

In the event that a mutually acceptable timing cannot be found, the Council officer will refer the resourcing issue to their General Manager or the Chief Executive Officer for resolution.

Where the Council officer is the Chief Executive Officer or where the Chief Executive Officer concurs with the Council officers' concerns, the Chief Executive Officer will either:

- a) nominate another Council officer to deal with the request; or
- b) refer the request to the Mayor for discussion with the Councillor for potential withdrawal of the request; or
- c) refer the matter to the Council for resolution of the resource allocation issue<sup>5</sup>.

#### 7.0 ATTACHMENTS:

Nil.

#### 8.0 REVIEW MECHANISM:

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	19 July 2016	G/16/2850	Include with code of conduct.
Amendment 1	4 December 2018	G/18/3592	Revised to be standalone policy following State Government Code of Conduct for Councillors

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**LEISA DOWLING**  
**CHIEF EXECUTIVE OFFICER**

<sup>5</sup> Note that under Section 170A(8) of the *Local Government Act 2009* the chief executive officer must "make all reasonable endeavours to comply with a request" (for information).