



This is an official copy of the **Acceptable Request Guidelines** of **Mornington Shire Council**, made in accordance with the provisions of the Local Government Act and Regulations, Public Records Act, Mornington Shire Council's Local Laws, Subordinate Local Laws and current Council Policies.

The Acceptable Request Guidelines is a Statutory Policy.

Statutory policies are prepared in response to legislative requirements and mandate employee behaviour. This Policy is approved by the Mornington Shire Council for the guidance of Council and Council staff.

DOCUMENT VERSION CONTROL			
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V1	12/07/2021	2021/	Responsible Officer Executive Manager Finance and Human Services Description Statutory Policy
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Objective

This policy is Council's acceptable requests guidelines for the purposes of section 170A of the Local Government Act 2009 (Qld).

The purpose of this policy is to:

- Provide guidance to Councillors and Employees about the acceptable manner in which a Councillor may ask staff members for advice or information to assist the Councillors in carrying out their responsibilities under the Local Government Act 2009 (Qld) and the Local Government Regulations 2012;
- Establish reasonable limits on requests that a Councillor may make; and
- Define the Employees to whom Councillors may make requests for information.

Scope

The Mayor and Councillors of Mornington Shire Council will all from time to time require assistance or information from the employees of the Council to enable them to effectively carry out their duties and represent the interests of the community.

These guidelines outline the standards for the provision of assistance or information to Councillors and are to be followed by the Mayor, all Councillors and employees.

Policy Statement

Definitions

Act means the Local Government Act 2009 (Qld).

CEO means the Chief Executive Officer of Mornington Shire Council and includes any officer acting in that position from time to time.

Councillor means a person or persons elected or appointed to the Local Government under the Local Government Act 2009 (Qld) or the Local Government Electoral Act 2011. A reference to Councillor includes the Mayor, unless expressly excluded.

Employee means any permanent, part time and casual employee or contractor of Mornington Shire Council. Employee includes a person prescribed as a local government employee under a State Government Regulation.

Information and advice mean details of what Council, Councillors and Employees are doing; any administrative, legal, financial, technical or statistical information held by Council and options available to achieve a particular thing

Senior Executive means an Employee of Council who reports directly to the CEO and whose position is ordinarily considered to be a senior position in Council's corporate structure. It includes any officer acting in those positions from time to time.



Requests for advice or information under these guidelines must comply with the principles that guide decision making by Councillors and Council employees stated in Chapter 1, section 4 of the Act as:

- Transparent and effective processes, and decision-making in the public interest; and
- Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- Democratic representation, social inclusion and meaningful community engagement; and
- Good governance of, and by, local government; and
- Ethical and legal behaviour of Councillors, local government employees and Councillor Advisors.

Directions to Employees by Councillor, including the Mayor

Councillors are reminded of their obligations under section 170 of the Act which states:

1. The Mayor may give a direction to the CEO, except where:
 - a. it is inconsistent with a resolution, or document adopted by resolution, of Council;
 - b. it relates to the appointment of a local government employee;
 - c. it relates to disciplinary action by the CEO in relation to an Employee; or
 - d. it would result in the CEO contravening a provision of an Act.
2. No Councillor, including the Mayor, may give a direction to any other local government employee, except in accordance with section 170AA of the Act.
3. Councillors, including the Mayor, must not discuss with Employees any matters relating to the terms and conditions of their employment with Council except as necessary when conducting the performance appraisal of the Chief Executive Officer.
4. Interaction between Councillors and Employees must, at all times, be carried out in a professional and courteous manner.
5. Councillors must ensure that when making a request for advice that the manner and timing of their request is not capable of being construed as an unlawful direction to the Employee.
6. If an attempt is made by a Councillor to direct an Employee, the Employee must report this matter to the CEO directly or through the Employee's Senior Executive Officer so that the matter can be addressed with the Councillor.



Mayor and Chairpersons

Section 170A(6) of the Act provides that these reasonable request guidelines do not bind the Mayor, or the Chairperson of a committee if the request for advice relates to the role of the Chairperson.

Routine Operational Requests

Councillors are encouraged to raise all routine operational matters through the Mayor, who will then raise it with CEO or a Senior Executive Officer. An example of a routine operational matter is wanting to know the location of a meeting or lodgement of a customer service request.

Interaction between Employees and Councillors

Employees must not approach Councillors in the exercise or performance of their role.

Requests for Advice or Information

A request for information or advice must identify the proposed decision that the Councillor needs information or advice on.

If the Councillor expects to receive a written response to the request for advice or information, the Councillor must make the request in writing (including by email).

Councillors must ensure that any requests for advice:

- a) Are not made in conflict with Council's adopted policies, local laws, resolutions, corporate plan and budget;
- b) Do not substantially and unreasonably divert the resources of the Council from the performance of its functions;
- c) Have been considered against the likely cost implications when making requests for advice and if the cost of providing the information is likely to be high, the Councillor may make the request only to the Chief Executive Officer, who is expressly authorised by the Council under these guidelines to seek to minimise the costs to provide the advice.

A request for information relating to Council by a Councillor must be made directly to the CEO. The only exception to this is pursuant to section 170A(6) as stated above.

When Information or Document Excluded

A request for Information or a document under section 170A(2) or 170A(3) do not apply to information or a document:

- a) that is a record of the conduct tribunal; or
- b) that was a record of a former conduct review body (i.e. a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal); 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.



Timeframe for Response

The CEO is responsible for complying with a request made for either advice or information within:

- (a) 10 business days after receiving the request; or
- (b) if the CEO reasonably believes it is not practicable to comply with the request within 10 business days, then within 20 business days after receiving the request.

Relevant Legislation

1. Local Government Act 2009 (Qld)
2. Local Government Regulation 2012 (Qld)

Variations

Council reserves the right to vary, replace or terminate this policy from time to time.

Gary Uhlmann
Acting Chief Executive Officer