

Acceptable Request Guidelines

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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 2009, Local Government Regulation 2102, Right to Information Act 2009, Public Sector Ethics Act 1994, Information Privacy Act 2009, Crime and Corruption Act 2001, Human Rights Act 2019, Public Records Act 2023, Industrial Relations Act 2016, Public Interest Disclosure Act 2010, Planning Act 2016, Environmental Protection Act 1994, Mornington Shire Council's Local Laws, Subordinate Local Laws and current Council Policies.

The Acceptable Request Guidelines Policy is a Statutory Policy.

1. Purpose

1.1 This Policy sets out the guidelines for request for assistance, advice or information by Councillors to Council employees, to assist Councillors to carry out their responsibilities under the Local Government Act 2009 (the Act).

2. Policy Outcome

2.1 Councillors are able to seek assistance, advice or information – in certain circumstances – from local government employees to assist them to carry out their responsibilities under the Act and be provided with that information. A Councillor may also, subject to any limits prescribed under a regulation, ask the

Chief Executive Officer (CEO) to provide information relating to the local government, for example - A regulation may prescribe the maximum cost to a local government of providing formation to a Councillor.¹

3. Policy Scope

3.1 Section 170A (7) of the Act provides that 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 the Act; and
- (b) reasonable limits on requests that a Councillor may make.

3.2 Under section 170A (5) of the Act, a request of a Councillor is of no effect if it does not comply with these guidelines. However, under section 170A (6) subsection (5) does not apply to:

- (a) the Mayor, or
- (b) the chairperson of a committee making a request that relates to their role as a chairperson.²

3.3 Section 170A (4) of the Act provides that a Councillor may not request – and the CEO is not required to provide to a Councillor – information or a document:

- That is a record of the Councillor Conduct Tribunal; or
- That was a record of a former conduct review body; or
- If disclosure of the information or document to the Councillor would be contrary to an order of a court or tribunal; or
- That would be privileged from production in a legal proceeding on the ground of legal professional privilege.³

3.4 This Policy does not apply to directions to local government employees about providing administrative support. Matters relating to administrative support for Councillors fall within the scope of the Guidelines for the Provision of Councillor Administration Support Staff Policy (MSC-STAT-028), developed in accordance with sections 170 and 170AA of the Act.

¹ Section 170A Local Government Act 2009

² Section 170A (5) Local Government Act 2009

³ Section 170A (4) Local Government Act 2009

4. Definitions

Term	Definition
CEO	Chief Executive Officer
Councillors	Includes Mayor, Deputy Mayor and Councillors
Advice	Means knowledge or opinion given by a council employee to assist a Councillor carry out their duties. For example, a Councillor may ask a council employee about the process for a Community Grant.
Information	Means any documentation that a local government has access to. It includes records and documents, printed and electronic, that the local government can access. For example, a councillor may ask the CEO for a copy of a development application that was submitted to Council.
Request	Includes questions, suggestions or feedback.
Employee/s	Employee/s (fulltime, parttime and casual) and contractors of Mornington Shire Council.
Executive Leadership Team or ELT	The group of the most senior officers in Council, led by the CEO, responsible for the overall strategic leadership, management, and operational delivery of the organisation.
MSC	Mornington Shire Council
Publicly Available Information	Information in a register or other instrument required to be kept by Council under a relevant Act or Regulation, including under the Local Government Act 2009, the Planning Act 2016 or the Environmental Protection Act 1994, that is accessible by a member of the public either free of charge or on payment of fee.
Redacted	means edited document/s that has/have had sensitive or private information removed.
The Act/LG Act	Local Government Act 2009 (Qld)

5. Councillor Responsibilities

5.1 The underpinning principles and Councillors' responsibilities under The Act are set out in section 4 (Local Government Principles), and section 12 (Responsibilities of Councillors). The provisions of these sections require Councillors to act in the interests of the residents of the whole local government area, to ensure effective service delivery and to be accountable to the community for the performance of the local government.

5.2 Councillors are, at all times, required to comply with the Code of Conduct for Councillors in Queensland.

5.3 To fulfil their responsibilities as Councillors under section 12 of The Act, Councillors may request assistance, advice, information and administrative support from Council employees.

5.3 Communications by councillors with employees and the CEO must be conducted in a respectful, reasonable and professional manner.

5.4 Communications by councillors with employees must:

- be conducted in accordance with the local government principles prescribed in Section 4(2) of The Act;
- comply with legislation, Council policies, guidelines and procedures; and

- be conducted in good faith;
- not attempt to give directions to any employee under section 170 (3) of The Act, except in accordance with the guidelines made under section 170AA about the provision of administrative support to Councillors.

5.5 Information or Advice that a Councillor may request

5.5.1 Councillors, when asking for advice or information must comply with all of the obligations set out in section 170A of The Act.

5.5.2 Subject to Clause 5.6 and 5.8 a Councillor may ask an employee to:

- a) provide advice or information to assist the Councillor to carry out their duties under The Act; or
- b) provide information that Council has access to, relating to council.
- c) provide assistance or information of a similar nature and in a similar manner to that which the employee would ordinarily give to a member of the public.

5.6 Information from Publicly Available Sources and Subscription Services

5.6.1 Wherever practicable, Councillors are encouraged to obtain information themselves from publicly available sources without making a request under this policy, such as Council's website and State Government websites.

5.6.2 Councillors are also encouraged to obtain information themselves from libraries and other services that Council has access to on a subscription basis, including the Local Government Association of Queensland or LG Central.

5.6.3 Any request from a Councillor about how to access information or utilise any electronic platforms should be directed to the CEO either verbally or in writing.

5.6.4 Requests for Publicly Available Information can be made to any employee, provided those requests are limited only to Publicly Available Information.

5.7 Information and Advice that Cannot be requested

5.7.1 In addition to items in Clause 3.3, a Councillor may not request information or advice involving any of the following:

- Information or advice which is not for assisting the Councillor in undertaking their duties, or information which is not related to Council and of which Council does not have access to;
- Information which is a public interest disclosure under the Public Interest Disclosure Act 2010 (Qld);
- Personal information under the Information Privacy Act 2009 (Qld);
- Matters relating to the conduct of any Councillor, including any complaint, referral or investigation about that conduct to the extent it is not publicly available information;
- Confidential information under the Crime and Corruption Act 2001 (Qld);
- Information or a document that comprises proceedings in the Assembly or a committee of the Assembly, as defined in the Parliament of Queensland Act 2001 (Qld), section 9 – including, for example, evidence given before a committee, or a document prepared or published under the authority of the Assembly or committee. This restriction applies in accordance with section 170A (4) of The Act.

5.7.2 However, a Councillor may request information or advice that is confidential information of Council (other than information noted in 5.7.1) provided that:

- The request demonstrates a direct link to assisting the Councillor in undertaking their official duties; and
- The request is made only to the CEO (and no other employee); and
- Any provided information is immediately returned to the CEO at their request; and
- If the contents of the information are considered by the CEO to be of a highly confidential nature, the CEO may elect to provide 'view only' access to that information or; they may provide 'redacted' information if the request is private under the Information Privacy Act 2009 (Qld) or Human Rights Act 2019 (Qld).

5.8 Direction and Requests

5.8.1 Under no circumstances may a Councillor give a direction to an employee, except in accordance with the Provision of administrative support under section 170AA of The Act. Councillors are requested to refer to the council's Provision of Administrative Support Guidelines Policy.

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

5.8.2 The Mayor may give a direction to the CEO in accordance with section 170 of The Act.

5.9 Manner in Which a Councillor Can Request Information

5.9.1 A councillor may only request information or advice from:

- The CEO
- A member of the ELT
- An employee acting in any of the above positions
- A nominee delegated by the CEO

5.9.2 Councillor requests are to be made in writing, unless:

- The request involves information which is generally accessible to the public.
- The employee agrees that a verbal request is sufficient in the circumstances and the employee records the details of the request in a file note, work diary (electronic or hard copy) email or similar or;
- In the case of emergency.

5.9.3 Councillor requests are to be:

- Made in good faith; and
- Not involve an unreasonable use of an employee's time having regard to the resources available to Council.

5.9.4 A Councillor must advise the employee if they have made a similar request for the same information from any other employee.

5.9.5 A Councillor's request for information or advice must not take the form or an attempt to direct or pressure the employee to prepare a response in a certain manner.

5.10 Use of Information and Confidentiality

5.10.1 Councillors must not use information that is acquired as a Councillor to:

- Gain, directly or indirectly, a financial advantage for the person or someone else; or
- Cause detriment to the person or someone else; or
- Cause detriment to the Mornington Shire Council.

5.10.2 Councillors must not release information that the Councillor knows, or should reasonably know, is confidential to the Mornington Shire Council.

5.10.3 Councillors must not provide information to a member of the public any information made to them as an elected representative that is not within the public domain which could contravene the Right to Information Act 2009 (Qld), Human Rights Act 2019 (Qld), or The Act.

6. CEO Responsibilities

6.1 The CEO must keep and make available a record of each direction given by the Mayor.

6.2 The CEO or delegate must comply with a request for advice or information made in accordance with these Acceptable Request Guidelines within ten (10) business days after receiving the request.

6.3 If the CEO or delegate reasonably believes it is not practicable to comply with the request within ten (10) business days, the CEO or delegate must comply with the request within twenty (20) business days, providing notice to the Councillor to that effect within ten (10) business days of the request.

6.4 The CEO, may be unable to comply with a request on reasonable grounds if the request is not within the reasonable limits as set out in this Councillor Acceptable Request Guidelines as per section 170A (7) (b) of the Act.

6.5 The CEO will ensure reasonable assistance will be provided to Councillors in the exercise of the role and performance of their duties.

7. Non-compliance

7.1 If a Councillor asks for assistance, advice or information outside of these guidelines, or attempts to direct or influence an employee about the way in which their duties are to be performed the employee must report this in a timely manner to their ELT member or the CEO.

7.2 The employee is not required to notify that Councillor that their actions have been referred to the Director or CEO.

7.3 Failure to comply with the standards of behaviour in the Code of Conduct for Councillors in Queensland may give rise to a complaint about a Councillor's conduct and subsequent investigation and disciplinary action should that Councillor be found to have engaged in conduct contrary to the Code.

7.4 If an employee is contacted by a Councillor requesting advice or information that is not in accordance with this policy, the employee should advise their ELT member or the CEO as soon as practical providing the nature and request and any advice given.

7.5 Employee Breach – any suspected breach by employees of the Councillor Acceptable Requests Guidelines may be a breach of the Employee Code of Conduct and will be reported to the CEO who will manage the complaint.

8. Legislation and Related Documents

- Local Government Act 2009 (Qld)
- Local Government Regulation 2012 (Qld)
- Industrial Relation Act 2016 (Qld)
- Right to Information Act 2009 (Qld)
- Public Sector Ethics Act 1994 (Qld)
- Public Interest Disclosure Act (Qld)
- Information Privacy Act 2009 (Qld)
- Public Records Act 2023 (Qld)
- Crime and Corruption Act 2001 (Qld)
- Planning Act 2016 (Qld)
- Human Rights Act 2019 (Qld)
- Environmental Protection Act 1994 (Qld)

- Councillor Code of Conduct Queensland

- Employee Code of Conduct

- Guidelines for the Provision of Councillor Administration Support Staff Policy