

# Councillor Acceptable Requests Guideline Policy



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Policy Number:	KASC-STAT-028
Responsible Manager:	Chief Executive Officer
Legislation:	Local Government Act 2009 Local Government Regulation 2012 Code of Conduct for Councillors in Queensland Code of Conduct for Councillor Advisors in Queensland Industrial Relations Act 2016 Right to Information Act 2009 Public Service Ethics Act 1994 Public Interest Disclosure Act 2010 Information Privacy Act 2009 Crime and Corruption Act 2001 Planning Act 2016 Environmental Protection Act 1994
Approval Date:	23 August 2022

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## 1. Purpose of this Policy

- 1.1. The Mayor, Councillors and Councillor Advisors of KASC may require information or advice from Council employees in order to perform their responsibilities under the Act. Under the provisions of Section 170A(7) of the Act Council can adopt acceptable requests guidelines about –
  - a. the way in which a Councillor may ask a local government employee for advice to help the Councillor carry out their responsibilities under the Act; and
  - b. reasonable limits on requests that a Councillor may make.
- 1.2. The policy informs Councillors and Councillor Advisors of their obligations in dealing with Council employees and provides a framework for constructive interactions between Councillors, Councillor Advisors and Council employees.

## 2. Policy Scope

- 2.1. This policy applies to all Councillors, Councillor Advisors and Council employees.
- 2.2. To the extent that a Councillor or a Councillor Advisor, other than the Mayor or the Chairperson of a committee (when the request relates to the role of the chairperson) makes a request for advice or information from a Council employee that does not comply with this policy, that request is of no effect.

## 3. Application of this Policy

- 3.1. In order to uphold the integrity of the relationship between the elected and administrative elements of Council, this Policy specifies:
- a. the ways in which Councillors and Councillor Advisors may request information or advice from Council employees, including the reasonable limits on requests that a Councillor and Councillor Advisors may make;
  - b. from whom within the organisation Councillors and Councillor Advisors may request information or advice; and
  - c. the way Council employees are to respond to Councillor/Councillor Advisor requests for information or advice.
- 3.2. This policy does not deal specifically with issues regarding attempts to influence Council employees. Under section 150EZ of the Act, it is an offence for a Councillor who has a prescribed or declarable interest in a matter, to direct, influence, attempt to influence, or discuss the matter with, another person who is participating in a decision of the local government relating to the matter.

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#### 4. Terms and Definitions

- 4.1. In this policy:

<b>Council:</b>	Means Kowanyama Aboriginal Shire Council
<b>Publicly Available Information:</b>	Means Information in a register or other instrument required to be kept by Council under a relevant Act or Regulation, including under the LGA, 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 a fee.
<b>Councillor Advisor:</b>	An officer appointed under s197A of the Act at the discretion of Councillor to perform duties, excluding Electioneering, at the direction of the Councillor.

#### 5. Acronyms and Abbreviations

- 5.1. In this policy:

<b>KASC:</b>	Means Kowanyama Aboriginal Shire Council
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#### 6. Information or Advice that a Councillor/Councillor Advisor may Request from a Council Employee

- 6.1. Subject to clauses 8 and 9 below, a Councillor/Councillor Advisor may ask a Council employee to:
- a. provide advice to assist the Councillor to carry out their duties under the Act; or
  - b. provide information that Council has access to, relating to Council.

#### 7. Information from Publicly Available Sources and Subscription Services

- 7.1. Wherever practicable, Councillors/Councillor Advisors are encouraged to obtain information themselves from publicly available sources without making a request under this policy, such as:
  - a. Council's website; and
  - b. State Government websites.
- 7.2. Councillors/Councillor Advisors 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.
- 7.3. Any requests from a Councillor/Councillor Advisor about how to access information or utilise any electronic platforms should be directed to the Executive Assistant to Mayor and CEO either orally or in writing.
- 7.4. However, requests for publicly available information can be made to any Council officer and need not comply with clause 9 below, provided those requests are limited to Publicly Available Information.

## 8. Information/Advice that Cannot be Requested

- 8.1. Section 170A (4) of the Act provides that a Councillor/Councillor Advisor may not request information:
  - a. that is a record of the conduct tribunal; or
  - b. that was a record of a former conduct review body; or
  - c. if disclosure of the information 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.
- 8.2. In addition, a Councillor/Councillor Advisor may not request information or advice involving any of the following:
  - a. information or advice which is not for assisting the Councilor in undertaking their duties, or information which is not related to Council and of which Council does not have access to;
  - b. information which is a public interest disclosure under the Public Interest Disclosure Act 2010;
  - c. personal information under the Information Privacy Act 2009;
  - d. the employment records of a Council employee;
  - e. 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;
  - f. confidential information under the Crime and Corruption Act 2001; and
  - g. information about recruitment of an individual or a recruitment process for a particular role within Council.
- 8.3. However, a Councillor may request information or advice that is confidential information of Council (other than information noted in clause 7.2 above or section 170A(4) of the Act) or involves a confidential matter provided that:
  - a. the request is made only to the CEO (and no other Council officer); and
  - b. any information is immediately returned to the CEO at their request.
- 8.4. Clause 7.2(e) does not apply to a Councillor who is managing the investigation of suspected inappropriate conduct of other Councillors in accordance with an investigation policy adopted by Council under section 150AE of the Act.

## 9. Directions

- 9.1. Under no circumstances may a Councillor give a direction to a Council employee.
- 9.2. The Mayor may give a direction to the CEO in accordance with section 170 of the Act.

9.3. If an attempt is made by a Councillor to direct an employee, the employee must report this matter to the Chief Executive Officer directly or through the employee's Executive Manager so that the matter can be addressed with the Councillor concerned.

## 10. Manner in which a Councillor/Councillor Advisor can Request Information from a Council Employee

10.1. A Councillor/Councillor Advisor may only request information or advice from:

- a. the CEO; or
- b. an Executive Manager; or
- c. the Executive Assistant to Mayor and CEO; or
- d. an employee acting in any of the above positions.

10.2. Councillor/Councillor Advisor requests are to be made in writing, unless:

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

10.3. Councillor/Councillor Advisor requests are to be:

- a. made in good faith; and
- b. not involve an unreasonable use of a Council employee's time having regard to the resources available to Council.

10.4. A Councillor/Councillor Advisor must advise the Council employee if they have made a similar request for the same information or advice from any other employee.

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

## 11. Responding to Councillor Requests

11.1. Every reasonable assistance will be provided to Councillors in the exercise of their role and the performance of their duties.

11.2. A Council employee who receives a valid request must:

- a. confirm in writing receipt of the request and the scope of the request within 24 hours if possible;
- b. indicate the turnaround time to provide the information or advice requested; and
- c. provide the information or advice requested to the Councillor within that turnaround time and as soon as reasonably practicable.

11.3. The CEO may apply conditions in relation to the response to the Councillor and must inform the relevant Executive Manager of the conditions (if any) relating to the provision of the information or advice.

11.4. The CEO or Executive Manager may direct a relevant employee within their team to comply with the Councillor's request or respond on their behalf.

11.5. Any response to a Councillor/Councillor Advisor must have due regard to the provisions of relevant legislation including the Act, the Local Government Regulation 2012, other Acts and Regulations, Council's Local Laws, Policies, Corporate Plan, Operational Plan, Annual Budget, and the nature of the environment in which work is performed.

11.6. Any requests for assistance which involve the expenditure of funds, or the use of resources not specifically provided for in the budget, must be referred to the relevant Executive Manager for approval. This could involve obtaining a Council resolution or budget amendment to authorise the work.

- 11.7. Any concerns raised in relation to the Councillor's request are to be elevated to a more senior employee for consideration, or in the case of the CEO, to the mayor.
- 11.8. Response time for requests are subject to factors such as (but not limited to) availability of the recipient to acknowledge receipt, competing priorities of the recipient, and outage of communications.
- 11.9. The CEO, Executive Managers and Council employees shall do all things reasonably practicable to meet acceptable response times whilst absent from duty/otherwise occupied (including enabling Outlook Out of Office Assistant, having staff check emails and acknowledge receipt in the recipient's absence, and diverting phones to alternate staff in the recipient's absence).

## 12. Councillor / Employee Interaction

- 12.1. It is important that each member of staff is aware of the names of each of the Councillors and their relevant portfolio in order that an appropriate level of service can be provided.
- 12.2. Councillors and employee interaction shall always be carried out in a professional manner with due regard to each other's respective position.
- 12.3. Where an employee contacts a Councillor in an emergency, the employee should immediately (or as soon as practicable) inform their Executive Manager or CEO accordingly.
- 12.4. To support the separation of powers as required by Local Government legislation, Councillors, including the mayor, should be addressed as "Councillor" or "Mayor" during work time, as per below:
  - a. Mayor: "Mayor", "Mr./Ms. Mayor", "Mayor [SURNAME]"
  - b. Deputy Mayor: "Deputy Mayor", "Mr./Ms. Deputy Mayor", "Deputy Mayor [SURNAME]"
  - c. Councillor [SURNAME]", or "Councillor"

## 13. Compliance and Reporting

- 13.1. Council employees must not comply with request for information or advice from Councillors which are contrary to the guidelines outlined in this policy. Where such requests are received, a report must be made either direct to the CEO or to the CEO through the employee's Executive Manager so that the matter can be addressed with the Councillor concerned.
- 13.2. If a Councillor is dissatisfied with either the proposed or actual turnaround time for a request, or with the type or extent of information provided in response to a request, the Councillor may notify their concerns to the person to whom the employee reports (in the case of the CEO, the Councillor may notify the mayor).
- 13.3. If a Councillor has notified a person about a concern under clauses 11.2 above, the person must undertake a review as soon as practicable and advise the Councillor in writing about how the concern will be addressed (if at all).

## 14. Councillor Use of Information

- 14.1. A Councillor/Councillor Advisor must only use information or advice obtained from a Council employee for a proper purpose and must not use the information or advice in contravention of section 171 of the Act.

## 15. Policy Review

- 15.1. The policy is to be reviewed in accordance with the Policy Framework.
- 15.2. Kowanyama Aboriginal Shire Council reserves the right to vary, replace, or terminate this policy from time to time.

## 16. Approval

- 16.1. This policy was duly authorised by Council on 23 August 2022 as Kowanyama Aboriginal Shire Council's Councillor Acceptable Requests Guideline Policy and shall hereby supersede any previous policies of the same intent.