

## BARCOO SHIRE COUNCIL ACCEPTABLE REQUEST GUIDELINES

Guidelines Number: BSC-048	Version: 1
Classification: Statutory	Section: Executive - Governance
Date Adopted by Council: 15 April 2020	Resolution Number: 2020.04.006
Responsible Officer: Director of Corporate Services	<p>Review: Note: This Policy is reviewed when any of the following occur:</p> <ol style="list-style-type: none"> <li>1. The related information is amended or replaced.</li> <li>2. Other circumstances as determined from time to time by the Chief Executive Officer.</li> </ol> <p>Notwithstanding the above, this Policy is to be reviewed at intervals of no more than two years.</p>

### 1. POLICY STATEMENT

- 1.1 The purpose of these Guidelines is to inform Councillors of their obligations in dealing with Council employees and to provide a framework for constructive interactions between Councillors and council employees.

These Guidelines are adopted by Council as 'acceptable requests guidelines' under section 170A(6) of the *Local Government Act 2009* (LGA).

- 1.2 These Guidelines are a policy or procedure of Council the contravention of which:
- (a) by a Councillor, may be 'misconduct' under the LGA; or
  - (b) by a Council employee, may involve disciplinary action being taken against the employee.
- 1.3 These Guidelines do not deal specifically with issues regarding attempts to influence Council employees. Under section 175I(3) of the LGA, it is an offence for a Councillor who has a material personal interest, real conflict of interest or perceived conflict of interest in a matter, other than an ordinary business matter, to influence, or attempt to influence, a Council employee or a Council contractor who is authorised to decide or otherwise deal with the matter to do so in a particular way.

### 2. SCOPE

This policy applies to all Councillors and employees (including contractors and consultants) of Council.

### 3. PRINCIPLES

Councillors may require information or advice from Council employees in order to perform their responsibilities under the LGA.

In order to uphold the integrity of the relationship between the elected and administrative elements of Council, these Guidelines specify:

- (a) the way in which Councillors may request information or advice from Council employees, including the reasonable limits on requests that a Councillor may make;
- (b) from whom within the organisation Councillors may request information or advice; and
- (c) the manner in which Council employees are to respond to Councillor requests for information or advice.

These Guidelines apply to all Councillors and Council employees. To the extent that a Councillor, other than the Mayor, makes a request for advice or information from a Council employee that does not comply with these Guidelines, that request is of no effect.

#### **4. RESPONSIBILITY**

The Chief Executive Officer has a responsibility to ensure all staff are made aware of the Acceptable Request Guidelines. The Mayor will ensure that Councillors are made aware of their responsibilities under the Acceptable Request Guidelines. All staff and councillors have a responsibility to adhere to the guidelines and relevant legislative requirements.

#### **5. DEFINITIONS**

Action - An action that may be taken in relation to a Councillor request. An Action may include, for example, that:

- (a) the request be directed to another employee;
- (b) the scope of the request be re-drafted; or
- (c) the request be made in writing.

Councillor - An elected member of Council, including the Mayor.

Emergency - An event or situation that involves an imminent and definite threat requiring immediate action (whether before, during or after the event or situation).

LGA – Local Government Act 2009

LGR – Local Government Regulations 2012

Portfolio – Councillors that are assigned a portfolio area

Senior Executive Employee – means a Director and as outlined in Section 196(6) of the LGA

Technical advice - advice strictly limited to the mechanics or technicalities of a particular subject area of a Council employee's employment.

#### **6. POLICY**

##### **Information or advice that a Councillor may request from a Council employee**

- 6.1 Subject to clauses 6 and 7 of these Guidelines, a Councillor may ask a Council employee to:
- (a) provide advice to assist the Councillor to carry out his or her duties under the LGA; or
  - (b) provide information that Council has access to, relating to Council.

##### **Information from publicly available sources and subscription services**

- 6.2 Wherever practicable, Councillors are encouraged to obtain information themselves from publicly available sources without making a request under these Guidelines, such as:

- (a) Councillor Web Portal;
- (b) Council's website; and
- (c) State Government websites, including Queensland Globe.

- 6.3 Councillors are also encouraged to obtain information themselves from library and other services that Council has access to on a subscription basis, including the *Local Government Association of Queensland* (LGAQ).

- 6.4 Any requests from a Councillor about how to access or utilise the platforms referred to above should ideally be directed to the Director of Corporate Services (or the IT Officer in their absence).

- 6.5 However, these guidelines recognise that requests for publicly available information can be made to any Council officer and need not comply with clauses 7 below, provided those requests are limited to Publicly Available Information.

## **Information/advice that cannot be requested**

6.6 Section 170A(3) of the LGA provides that a Councillor may not request information:

- (a) that is a record of the regional conduct review panel or the Local Government Remuneration and Discipline Tribunal or Councillor Conduct 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.

6.7 In addition, a Councillor may not request information or advice involving any of the following:

- (a) information or advice which is not of the type stated in clause 6.5 of these Guidelines;
- (b) information which is a public interest disclosure under the *Public Interest Disclosure Act 2010* (Qld);
- (c) personal information under the *Information Privacy Act 2009* (Qld);
- (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* (Qld); and
- (g) information about recruitment of an individual or a recruitment process for a particular role within Council.

6.8 However, a Councillor may request information or advice that is confidential information of Council (other than information noted in clause 6.5 above or section 170A(3) of the LGA or involves a confidential matter provided that:

- (a) the request is made under clause 7.3 of these Guidelines but only to the CEO (and no other Council officer); and
- (b) any information is immediately returned to the CEO at his or her request.

6.9 Clause 6.6(e) does not apply to a Councillor who is managing the investigation of suspected inappropriate conduct of other Councillors under section 150AE of the LGA. (Note: which is usually the Mayor)

## **7. DIRECTIONS**

7.1 Under no circumstances may a Councillor give a direction to a Council employee.

### **Direction Example:**

A Chair of a Committee (or Portfolio Councillor) is not to direct a Council employee to perform works or change operational requirements (even if resolved by the Committee). In this example the Chair or Portfolio Councillor should liaise with the relevant Director and can request information on when or how works will be performed.

7.2 Despite clause 7.1, the Mayor may give a direction to the CEO or a Senior Executive Employee in accordance with section 170 of the LGA.

Mayoral directions to the CEO and/or Directors must be consistent with Council's Budget and Policies and recorded in a register kept by the CEO.

## **Manner in which a Councillor can request information from a Council employee**

7.3 A Councillor may only request information from a Council employee if all of the following criteria are satisfied:

- (a) the request is made to:
  - (i) the CEO; or
  - (ii) the Director; or
  - (iii) an employee acting in either of the above positions

- (b) the request is made in the spirit of these guidelines and in good faith;
- (c) the request is appropriately recorded (if verbal);
- (d) the request would not involve an unreasonable use of a Council employee's time having regard to the resources available to Council.

#### **Councillor requests**

- 7.4 Councillors may request front line staff to record a customer service requests for the relevant Directorate to action. All customer service requests will be registered into Magiq.
- 7.5 The Chair of a Committee may request a council employee to add items to an agenda, liaise with guest speakers and check the agenda and venue of the meeting/s.
- 7.6 The Chair of a Committee may request a Director to report to a Committee on any subject matter relevant to the Committee's terms of reference.
- 7.7 A Chair of a Committee (or Portfolio Councillor) may request a Director to provide information relating to the Committee or Portfolio area.

#### **8. LEGAL PARAMETERS**

These Guidelines are to be read in conjunction with the following legislative provisions and Council policies:

- (a) sections 4, 12, 13, 170, 170A, 171 and 171A of the *Local Government Act 2009* (Qld) (LGA);
- (b) the Public Sector Ethics Act 1994 (Qld);

#### **9. ASSOCIATED DOCUMENTS**

Council's Code of Conduct Councillor  
Complaint Policy