

Program: Ethical Standards, Audit & Risk
Date of Adoption: 13 December 2023
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Scope

This Policy applies to all Councillors and Staff of Mackay Regional Council (MRC).

Objective

The purpose of this policy is to provide guidance for Councillors and Staff about the provision of advice and information to assist Councillors in accordance with the *Local Government Act 2009* (*the Act*).

Policy Statement

MRC is committed to ensuring that its elected representatives have appropriate access to relevant advice or information they require to fulfil their roles and to make informed decisions.

This Policy confirms MRC's committed to Section 170A of the Act to establish:

- (a) The way in which Councillors may ask Staff for advice, to help a Councillor carry out their responsibilities under the Act;
- (b) The way in which a Councillor may ask the Chief Executive Officer (CEO) to provide information, that the local government has access to, relating to the local government; and
- (c) The reasonable limits on requests that a Council may make.

This process to remain in force until otherwise determined
by Mackay Regional Council

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1.0 Principles

The following protocol is to provide guidance for all day-to-day communication between Councillors and Staff:

1.1 Councillor Responsibilities

1.1.1 Communication by Councillors with Staff must be conducted:

- a) In a respectful, reasonable and professional manner;
- b) In accordance with the law and the local government principles;
- c) In accordance with MRC's policies, corporate standards and procedures;
- d) In accordance with Council's organisational culture values – Safety and Wellbeing, Respect, Working Together, Service Excellence and Integrity;
- e) In good faith.

1.1.2 Councillors shall not direct, or attempt to direct, Staff in the course of their employment, with the exception of the Mayor who may direct the CEO in accordance with the Act. A breach of this clause may result in action being taken in accordance with clause 1.1.12.

1.1.3 The preferred method of communication of requests is via email to ensure that MRC can maintain appropriate records in accordance with the *Public Records Act 2002*.

1.1.4 Councillors may request advice or information from the following:

- CEO;
- Director;
- Executive Officer.

Staff identified in Attachment 1 may be contacted where technical expertise is required upon approval by the above.

Where the approved designated Staff members are not available, another suitably qualified Staff may provide the advice or information requested subject to clause 1.1.5.

1.1.5 Councillors may be given approval by the CEO, Directors or Executive Officer to request advice and information from Staff other than the designated positions, in specific circumstances. In these circumstances, written approval will be provided to both the Councillor and relevant Staff member.

1.1.6 Councillors may request, in writing, access to confidential information through the CEO, Executive Officer or Director.

Councillors should be mindful that any documentation provided which contains confidential material must be handled appropriately to ensure that the Council and MRC maintains its reputation and good standing with the community and to meet its obligations at law.

No Staff, other than a Director or the CEO, is entitled to distribute commercial-in-confidence information or data to a Councillor.

- 1.1.7 A Councillor must only use information or advice obtained from Staff for a proper purpose and must not use the information or advice in contravention of Section 171 of the Act.
- 1.1.8 Councillors shall not discuss any Staff employment contract, employment record, disciplinary matter or any other human resource/industrial matter with any Staff member. Councillors should refer the Staff member to the CEO or the relevant Director.
- 1.1.9 Councillors are not able to request copies of the following information:
 - a) A record from the Councillor Conduct Tribunal;
 - b) A record of a former conduct review body;
 - c) A disclosure of information or document to the Councillor which is contrary to an order of a court or tribunal;
 - d) Information that would be privileged from production in a legal proceeding on the grounds of legal professional privilege;
 - e) Is confidential information under the *Crime and Corruption Act 2001*;
- 1.1.10 This policy should not be used as an alternative procedure for dealing with customer enquiries and complaints. Please refer to clause 1.5 for the preferred process.
- 1.1.11 To avoid inappropriate interaction opportunities with Staff, Councillors should limit their access to necessary areas and paths only within office areas, and not enter general Staff areas unless necessary.
- 1.1.12 Any breach of clause 1.1.2 will be considered misconduct in accordance with section 150L of the Act. In accordance with section 150S of the Act and the Code of Conduct for Councillors, misconduct will be referred to the Office of Independent Assessor (OIA) for assessment and investigation. The OIA may then refer the matter to the Conduct Tribunal to be heard and determined.

1.2 Chief Executive Officer Responsibilities

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

- 1.2.2 The CEO or delegate must comply with a request for advice or information made in accordance with this policy within ten business days after receiving the request. If the CEO or delegate reasonably believes it is not practicable to comply with the request within ten business days, the CEO, or delegate, must comply with the request within 20 business days, providing notice to the Councillor that effect within ten business days of the request.

1.3 Employee's Responsibilities

- 1.3.1 Communication by Staff with Councillors must be conducted:
- a) In a respectful, reasonable and professional manner;
 - b) In accordance with the law and the local government principles;
 - c) In accordance with MRC's policies, guidelines and procedures;
 - d) In accordance with Council's organisational culture values - Safety and Wellbeing, Respect, Working Together, Service Excellence and Integrity;
 - e) In good faith.
- 1.3.2 Approved designated Staff are to reasonably ensure that any information that is provided to a Councillor is accurate and correct and brought to the attention of an appropriate Manager or Director in a timely manner.
- Staff shall consider the likely resource implications in responding to the Councillors' requests for assistance or information, and where the Staff member has concerns to either the cost or other use of resources, they should refer the request to their Manager, Director, Executive Officer or CEO.
- 1.3.3 If a Councillor directs or attempts to direct Staff about the way in which their duties are to be performed, or if they believe a Councillor has behaved in a manner contrary to this policy, Staff should report the circumstances to their Manager and Director as soon as possible.
- 1.3.4 Any request for information by a Councillor which cannot be answered quickly with minimal resources or is allocated to an officer for response shall be recorded in a Councillor Requests Document and where necessary MRC's electronic records management system by the relevant approved designated Staff.
- 1.3.5 Staff shall not discuss with a Councillor any Staff employment contract, employment record, disciplinary matter or any other human resource/industrial relation matter.

1.4 Response Timeframes

The following timeframes shall be met by all approved designated Staff:

- 1.4.1 Where the information requested by the Councillors is routine and is readily available from Council's business systems, a response would ordinarily be provided within one business day.
- 1.4.2 All other requests requiring investigation or resources will be considered in priority with other business requests but would ordinarily be provided within ten business days after receiving the request, except where the information requested is of a complex nature or requires substantial research.
- 1.4.3 Where the matter is complex and requires substantial research and analysis or requires input from various directorates, a response will be provided within twenty business days after receiving the request.

1.5 Emergency Situations

- 1.5.1 When an emergency situation occurs after hours, Councillors may contact one of the following:
 - CEO;
 - Director;
 - Executive Officer.
- 1.5.2 Other than in emergency situations (as per clause 1.4.1) Councillors are not to contact any other Staff member outside normal office hours, other than with the prior approval of the CEO.
- 1.5.3 For all other customer requests outside of normal office hours Councillors are requested to lodge a request through the general after-hours customer service phone number.

1.6 Customer Requests/Complaints

Where Councillors through interaction with customers receive requests for assistance or complaints, the following process should be followed:

- In the first instance Councillors should direct customers to contact MRC directly via 1300 Mackay, or by lodging the request via MRC's web-site.
- Alternatively, Councillors can take the details and have them registered within Council's Customer Request System as follows:

1. Any such customer requests are forwarded to the Councillors Executive Support Officer for submission;
2. A Customer Request number will be allocated and advised to the Councillor;
3. Councillors can pass this request number on to the customer, and also retain the number for further follow-up of status;
4. A report will be produced monthly recording the status of the requests submitted by the Councillor under such a process, including updated status comments.

2.0 Administrative Support and Councillor Advisors

2.1 Administrative Support Staff

The following Employee positions and resources are specifically provided in direct support of Councillors and their functions:

- Executive Assistant – Provision for the Mayor of a full time Council staffed Executive Assistant position with the Office of the Mayor and CEO;
- Executive Support Officer – Provision for Councillors of access to the services of a Council Staff Executive Support Officer position with the Executive Office; and

As well as the above, adhoc Support Staff may include but not be limited to the below to assist Councillors –

- co-ordination of committees or groups that Councillors Chair or are members of as part of their Council appointed roles;
- co-ordination of community consultation sessions or community meeting sessions attended by Councillors
- other Council appointed or directed tasks allocated to Councillors and for which adhoc support is needed.
- Support Staff to assist with the coordination of registers of interests.

The following tasks may be directed by a Councillor to Support Staff, and include but are not limited to:

- Answering telephone calls;
- Managing appointments calendar;
- Photocopying, printing and ordering stationery;
- Liaising with Council about office maintenance or health and safety issues on behalf of the Councillor;
- Room or travel bookings, for example booking Council vehicles or meeting rooms;
- Logging requests for service jobs from the community, for example requests for street or park maintenance;
- Locating information for Councillors such as legislation, information from Council's website or other sources; or
- Assisting the Mayor with communication to the community through emails, e-newsletters, informational advice flyers about construction

works, or other similar mediums, if the communication is objective, factual, informational, 'business as usual' and an efficient use of funds.

Except in exceptional circumstances, and if approved and arranged in advance, any Support Staff services will be –

- within standard working hours;
- shared between multiple Councillors;

When a request for advice or information is received that is considered to be outside the scope of a Councillor's official duties or a request for advice or information is received which, upon consideration, will take a significant amount of resources to satisfy or cause an undue impact on the Support Staff, the matter is to be escalated to the CEO and/or the Executive Officer or applicable Director to make a decision as to whether it is considered that the fulfilment of the request is required to allow the Councillor to perform their duties.

Council Support Staff cannot assist with the Councillor's re-election or other 'campaigning' tasks.

Should a Councillor have concerns or are dissatisfied with their Support Staff they must submit their concerns directly to the CEO and/or Executive Officer or applicable Director who are generally responsible for managing Support Staff.

2.2 Councillor Advisor/s

MRC is permitted under the Act to appoint two appropriately qualified Councillor Advisors to assist the Mayor in performing their duties.

As standard terms, the requirements under the Act for MRC to employ a Councillor Advisor is that:

- Council must resolve to allow a Councillor to appoint an appropriately qualified Councillor Advisor.
- A Councillor must not appoint a close associate of the Councillor as a Councillor Advisor.
- Should a Councillor have concerns or are dissatisfied with their Advisors they must submit their concerns directly to the CEO who is responsible for managing all Councillor Advisors.
- The Councillor Advisor must enter into a written contract of employment with MRC.

3.0 Complaints

A Councillor's failure to follow any Council Policy regarding Support Staff and/or contracted Councillor Advisor contravenes the behaviour standards set out under the *Code of Conduct for Councillors in Queensland* and is considered inappropriate conduct. MRC Employees including Support Staff and Councillor Advisors, other Councillors or

members of the community may lodge complaints about suspected inappropriate conduct to the Office of the Independent Assessor.

Telephone: 1300 620 722

Via Email: OIAcomplaints@oia.qld.gov.au

4.0 Human Rights Complaints

When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the Human Rights Act 2019.

5.0 Definitions

To assist in interpretation the following definitions shall apply:

Act shall mean the *Local Government Act 2009*.

Advice shall mean an opinion or recommendation offered as a guide to action, conduct etc.

CEO shall mean the Chief Executive Officer. A person who holds an appointment under section 194 of the *Local Government Act 2009*. This includes a person acting in this position.

Constituent shall refer to any resident, ratepayer or person residing within the Mackay Regional Council's local government area including business and commercial operators.

Council shall mean all elected representatives of Mackay Regional Council.

Councillor shall mean an individual elected representative of Mackay Regional Council.

Councillor Advisor shall mean an appropriately qualified person to assist the Mayor in performing their responsibilities, including administrative support, coordinating media activities, event management functions, policy development and office management.

Councillor Administrative Support Staff (Support Staff) shall mean an MRC employee who assists the Mayor and Councillors in meeting the responsibilities of their roles and delivery of important services and infrastructure for local communities.

Councillor Conduct Tribunal shall mean an independent body appointed by the Governor in Council for dealing with complaints of misconduct by councillors.

Emergency Situation shall mean a matter that may cause harm to MRC or the community or damage the reputation of Council if not dealt with promptly.

Information shall include letters, reports/documents, facsimiles, attachments, tapes, emails, electronic media and or other forms of information including discussions during meetings.

MRC shall mean Mackay Regional Council.

Register of Interest shall mean a Register to record a Councillor Advisors interests or person who is related to that Councillor Advisor.

Staff shall mean all persons employed by Mackay Regional Council on a permanent, temporary, casual basis, or otherwise engaged by Mackay Regional Council including those under a contract of service or a volunteer program.

6.0 Review of Policy

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

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

7.0 Reference

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Electoral and Other Legislation (Accountability, Integrity and other Matters) Act 2020*
- *Information Privacy Act 2009*
- *Right to Information Act 2009*
- *Public Sector Ethics Act 2004*
- Councillor Code of Conduct
- Employee Code of Conduct
- 002 – Reimbursement of Expenses and Provision of Facilities for Councillors Policy

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New		Council	13/05/2020
2	Review of Policy	Amendments to Policy	Council	13/12/2023

Attachment 1 – Approved Designated Staff

- Chief Executive Officer
- All Directors
- *Associate Directors
- *All Executive Managers
- Executive Officer

Administrative Support

- Relevant Directorate Executive Assistants
- Executive Support Officer

Corporate Governance

- Coordinator Corporate Governance
- Senior Governance Officer

Information Services Help Desk

- Team Leader ICT
- Team Leader ICT Service Desk
- ICT Operations Officer

Advisory Committees

- All Secretariat Positions to relevant advisory committees

*Subject to approval by the CEO, Director or Executive Officer

Attachment 2 – Approved Communication Channels for Councillors

Topic	CEO	Executive Officer	Relevant Directors	*Relevant Associate Director/Executive Manager	Relevant Directorate Executive Assistants	Councillor Support	Corporate Governance	Information Service Help Desk	Relevant Advisory Committee Secretariats
Council Plan, Strategy and Policy	√	√	√	√		√	√		
Operational Issues, Service Delivery, Complaints	√	√	√	√	√	√	√		
Media, promotions and communications	√	√	√	√		√			
Civil and Ceremonial	√	√	√	√	√	√			
IT Help	√	√				√		√	
Council Meetings/Agendas; Meeting procedures; Notified motions	√	√	√			√			
Councillor General Questions	√	√	√	√	√	√			
Planning/Development Matters	√	√	√	√	√	√			
Regulatory Matters	√	√	√	√	√	√			
Councillor Code of Conduct	√	√							
Register of Interests	√	√				√	√		
Declaration and Perceived Conflicts	√	√	√			√			
Legal Assistance	√	√	√						
Advisory Committees (Chairperson and Committee Members)									√

*Subject to approval by CEO, Director, Executive Officer