



Elected Members Information Request Policy

Strategic Reference	Provide leadership, good governance, and efficient, effective and responsive Council services
File Reference / Record No	18/067/229 / NGO13215
Responsibility	Chief Executive Officer
Version Number	Version 3.0
Last Revised Date	January 2024
Minute Book Reference	C24021
Next Review Date	January 2027
Applicable Legislation	Local Government Act 1999 (S61 & S62) Local Government (Procedure at Meetings) Regulations 2013 (S18)
Related Policies	Fraud, Corruption, Misconduct & Maladministration Policy
Related Procedures / Documents	

1. Objective

The purpose of this policy is to ensure that Elected Members have access to information in connection with the performance or discharge of the functions or duties as a Member.

2. Scope

This Policy applies to all requests for information by Elected Members to Council Employees.

3. Policy Summary

All Elected Members will have equal access to information to assist them in performing their functions and duties for making informed decisions.

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4. Legislation and Compliance

4.1. The Local Government Act 1999 (the Act) provides as follows:

Section 61 Access to information by members of councils

- (1) *A member of a council is entitled at any reasonable time, in connection with the performance or discharge of the functions or duties of the member (whether under this or another Act), without charge, to have access to any relevant council document, including (but not limited to)—*
 - (a) *a copy of a written contract entered into by the council, or a copy of a document relating to a contract that is proposed to be entered into by the council;*
 - (b) *accounting records kept by the council;*
 - (c) *financial statements and other documents prepared by the council under Chapter 8.*
- (2) *A request for access to a document under subsection (1) should be directed to the chief executive officer, or another officer specified by the chief executive officer for the purposes of this section.*
- (3) *The chief executive officer or another officer providing access to a document under subsection (1) may indicate to the member that information contained in the document is, or should be considered as, confidential.*

Pursuant to Section 62 of the Local Government Act 1999 states:

- (3) *A Member or former Member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of their position as a member of the Council to gain, directly or indirectly, an advantage for him or herself, or for another person or to cause detriment to the Council.*
- (4) *A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.*

Maximum penalty: \$10,000 or imprisonment for two years.

Note a breach of the Local Government Act 1999 - as set out above is a matter which a criminal penalty attaches. Alleged breaches should be reported to the Office for Public Integrity refer Council's Fraud, Corruption, Misconduct & Maladministration Policy.

Pursuant to Clause 3.3 of the Code of Conduct for Council Members, Council Members must not release or divulge information that the Council has ordered be kept confidential,

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or that the Council Member should reasonably know is information that is confidential, including information that is considered by Council in confidence.

Note: a breach of the Code of Conduct where there is reasonable suspicion of serious or systemic misconduct in public administration should be reported to the Office of Public Integrity also refer Council's Fraud, Corruption, Misconduct & Maladministration Policy.

Pursuant to section 18 of the Local Government (Procedures at Meetings) Regulations 2013:

- (1) A Member may require the Chief Executive Officer to table any document of the Council relating to a motion that is before a meeting (and the Chief Executive Officer must then table the documents within a reasonable time, or at a time determined by the Presiding Member after taking into account the wishes of the meeting, and if the member who has required the tabling is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).*
- (2) The Chief Executive Officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under Section 90 or 91 of the Act.*

5. Definition

Act means the Local Government Act 1999

CEO means the Chief Executive Officer or Acting Chief Executive Officer of the District Council of Yankalilla

Council Employees means any persons that is employed full-time, part-time or casually by council who receives remuneration for their work.

Confidential information (taken from the Council Member Code of Conduct) means a document that Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence.

Council / Elected Member means a person appointed or elected as a councillor of the District Council of Yankalilla.

Detriment means: the act of causing disadvantage or damage (to a person or the interests of the Council); the state of being harmed or damaged.

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6. Policy Content

6.1. Request for Access to Council Information or Documents

- 6.1.1. In general, an Elected Member will be provided access to all documents held by Council unless they are relevant to the Member's function or duties.
- 6.1.2. All Elected Member requests for Council information or documents must be directed to the CEO. The request may be made in person, by phone or in writing e.g., by e-mail.
- 6.1.3. Members are required where practical to make any requests for information/documents in a timely and considerate manner to minimise the impact on Council Employees/public resources.
- 6.1.4. The request should:
 - 6.1.4.1 Identify the document/s or information being sought with enough detail for the document/s or information to be identified and retrieved.
 - 6.1.4.2 State the reason(s) for the request.
 - 6.1.4.3 Form of access preferred by the Member e.g., read only, copies provided, electronic pdf.

6.2. Processing the Request

- 6.2.1. Unless there is a clear and valid reason to the contrary, an Elected Member will be provided access to information or document/s if they are held by Council. Where access to a document is not provided, the reason for denial of such access should be given to the Council Member in writing.
- 6.2.2. Generally, debates about 'relevance' to a Member's role and function will be avoided unless a request is complex and/or involves relatively substantial amounts of Council/public expenditure, in which case Section 59(1)(a)(i, ii, & iii) will be referred to. The CEO may also require a decision of Council prior to granting access.

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6.3. Provision of Information

- 6.3.1. The 'form of access' to the document/s will be negotiated with the Elected Member to take into consideration the particular needs of the Member, administrative efficiency and the degree of sensitivity in relation to the document. Access to information will be in accordance with statutory requirements and best practice from a probity and process perspective. In some cases, access may be limited to 'view only' at a mutually convenient time at the Council office.
- 6.3.2. Where access is granted to a document or other information of a sensitive nature, a copy of the e-mail advice will also be sent to other Elected Members and may be provided to other Members if relevant.
- 6.3.3. The CEO should indicate to Elected Members, if information contained in the document is, or should be considered as confidential.
- 6.3.4. Elected Members must not use confidential information to gain advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

6.4. Tabling of Information

- 6.4.1. Section 18 of the Regulations makes provision for a Member to require the CEO to table a document relating to a motion before a meeting.
- 6.4.2. The Presiding Member should determine the application of this provision at the meeting, if necessary, advised by the CEO and taking into account the wishes of the meeting.
- 6.4.3. The CEO is responsible for actioning such requests and determining what other Council Employee involvement may be necessary to ensure delivery of the requested documents to Council for tabling.

6.5. Elected Member Enquiries

- 6.5.1. The administration's role is to advise Council, implement Council decisions, deliver the services and implement and manage processes and procedures.
- 6.5.2. Elected Members are encouraged to contact the CEO or the Director Corporate Services, Director Asset and Environment, Group Manager Economy, Tourism and Community, Governance and Communications Coordinator for advice and support which may lead to seeking advice from lower-level Council Employee.

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6.6. Agenda Enquiries and Council Reports

- 6.6.1. The Council report is the formal means for providing advice to Council Members and provides relevant data, issues, options and advice to enable Members to consider the matter and make a decision at the Council meeting.
- 6.6.2. It is expected and encouraged that Members may wish to ask questions or seek clarification on a report prior to the Council meeting. Report authors should make themselves available prior to a Council meeting to assist Members with enquiries. This practice will facilitate the smooth running of the Council meeting and improve the efficiency of the decision-making process.

6.7. Other Rights

- 6.7.1. A Council Member may seek to have a decision by the CEO to withhold Council document(s) or other information reviewed by Council itself. This process will be dealt with under Council's 'Internal Review of a Council Decision' procedure.
- 6.7.2. A Council Member may also lodge a complaint with the Ombudsman, who may carry out an investigation if it appears (to the Ombudsman) that the CEO may have unreasonably denied or delayed access due to an unreasonable impact on Council resources.
- 6.7.3. This Policy does not negate any obligations that apply under the Freedom of Information Act 1991.

7. Further Information

This policy will be available for inspection at the Council office listed below during ordinary business hours and provided to interested parties as per Council's Fees and Charges Register. Copies are available to be downloaded, free of charge, from Council's website: www.yankalilla.sa.gov.au

District Council of Yankalilla
1 Charles Street
Yankalilla 5203

Phone: (08) 8558 0200
Fax: (08) 8558 2022
Email: council@yankalilla.sa.gov.au
Office hours: Monday to Friday, 9.00am to 5.00pm (except public holidays)

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8. Grievances

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

9. Review Cycle

This document is subject to review every three (3) years from adoption or more frequently if legislation or Council requires.

10. Document History

Date	Version	Council Resolution No.	Description of changes
September 2012	1.0	Not in Use	Adoption of Policy
August 2014	2.0	Not in Use	Review of Policy
January 2024	3.0	C24021	Review of Policy. Updated Format. Minor formatting amendments.

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