

Councillor Access to Information

Reference Number: P48
Organisational Unit: All
Responsible Position: Chief Executive Officer
Relevant Delegations: Nil
Date Adopted: 25 January 2017
Review Date: Every four years

Background

The Local Government Act outlines the role of Councillors (Section 11) and the role of CEO (Section 100). There is a separation of responsibilities and accountabilities for both these roles under the Act which has implications for access to information, the management of Council staff and access to Council premises for Councillors.

In addition, the following policies and their positions on Councillor's access and management responsibilities have informed the review of this policy:

- Council's *Code of Conduct*;
- Council's *Privacy Policy*; and
- Council's *Meeting Procedures*.

Objectives

The objectives of this policy are to:

- Outline Councillors' rights to information necessary for the exercising of civic office functions;
- Provide a process on how Councillors can access council records and information; and
- Provide a clear and consistent framework through which breaches of this policy will be managed and reported in alignment with the Council's *Code of Conduct*.

Legislation

- Privacy Act (Commonwealth)
- Information Act (NT)
- Local Government Act (NT)

Definitions

Councillor - a member elected or appointed to the Council under Section 33 of the Act.

President - the Council President or in his or her absence, the Deputy President, Acting President or member chosen at the meeting in accordance with section 61 of the Act.

Confidential matters - any confidential information as defined by regulation 9 of the NT Local Government Administration Regulations 2008

CEO - CEO and includes an acting CEO.

Meeting - any meeting of Council or Committee and includes Ordinary Council meeting, Special Council meeting and Committee meeting.



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Scope

This policy applies to the provision by Council staff of any information requested by Councillors, including information of a confidential or sensitive nature to which access may be limited.

Policy

Rights of Access to Information

Councillors have the same general right as members of the public to inspect and take away copies of records and documents and are subject to the same constraints. The provisions of the *Information Act* are available to members of the community and to Councillors. A range of documents may not be made available to members of the public in accordance with the *Information Act*.

Access to Information by Councillors

Councillors have a right to inspect any record of the Council provided that it is relevant to the exercising of the Councillor's responsibility in his or her civic office and is not subject to privacy, confidentiality or legal restraint. This right does not extend to matters about which a Councillor is merely curious. The statutory role and duties of President, Councillors and the CEO are outlined in *Local Government Act*.

Each request will be treated on its merits but as a general rule those records immediately seen as relevant to the exercising of a Councillor's responsibility of civic office are:

- Matters before a Council meeting, either currently or within the current term of the Council; and/or
- Matters known by the CEO to come before Council in the near future.

Councillors can also request access to other documents of the Council either by a Notice of Motion to the Council, a Freedom of Information application under the *Information Act*.

Councillors who have a personal or pecuniary interest in a document of Council have the same rights of access as any other person as stipulated by the Code of Conduct.

Access to Information by President

Access will be provided to documents and files necessary for the President's role. This includes files relevant to correspondence received directly by the President and is subject to the same viewing rules. As a Councillor, the President is subject to the same requirements of access as apply to other Councillors.

Access to Councillors to the Computer System

Councillors shall have the same access to Council's computer system as do members of the public.

Councillors also have access to office productivity tools in the computer system to assist in word processing, email, internet, etc, but do not include access to Council records databases.



two ways :: one outcome

Use of Information by Councillors

Reference should be made to Council's *Code of Conduct* that offers specific guidance to Councillors in dealing with information provided to them in the course of their civic duties.

It is recognised that Councillors have a role both as a member of the governing body of the Council and as an elected person and importantly it recognises the difficulty for Councillors to reconcile the two areas of responsibility when dealing with Council information and documents. It notes that while it is desirable in the public interest to maintain open government, not all information available to Councillors is available to members of the public.

Councillors are made privy to information of a confidential nature the disclosure of which is specifically prohibited in certain circumstances.

The right of Councillors to have access to records is for the purpose of exercising the office of Councillor. It does not carry with it the right to disclose any information obtained by a Councillor to another person, unless it is already in the public domain. A Councillor has no authority to release documents on behalf of Council.

The President shall not cause the by-passing of the general access provisions by providing to another Councillor information that was made available through the President's role. Councillors shall not cause the by-passing of FOI provisions of the *Information Act* by providing to a member of the public information made available to Councillors as an elected representative.

The Chief Executive Officer will provide further guidance and assistance to Councillors in determining whether a document is confidential and/or not to be released.

Procedure for Access to Information by Councillors

Access by Councillors to a Council file, record or other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common law rights of access, which are as follows:

- A Councillor may request the CEO to inspect a particular Council record. Such requests shall be in writing and clearly state the purpose for which access is required. Unless circumstances of urgency apply, three clear working days notice are required for an inspection of documents stored on site. The timeframe is extended to five working days for those files/documents stored offsite (in repository). Notwithstanding, if the matter is one that is currently before the Council every effort will be made to provide priority access to the file/documents to any interested Councillor.
- The CEO shall not unreasonably decide that a document is not relevant to the performance of the Councillor's civic duty and deny access to a Council document. The CEO must state reasons for the decision if access is refused.

- If the CEO allows access; then the inspection is carried out at a suitable date and time in the presence of the CEO or another nominated Council Officer within the usual privacy requirements relative to the file at the Council Offices in Alice Springs.
- If the CEO decides that access to a document or other information held by the Council should not be given to a Councillor then the Councillor has a number of options:
 - Take no further action;
 - Seek Council support for the requested access; or
 - Lodge an FOI application under the Information Act, as appropriate.
- If the Councillor wishes to appeal to Council on an access issue, the Councillor should give notice of intention to move for the production of the record (ie by way of Notice of Motion); and, at a meeting of the Council move the motion.
- If the Council passes a motion for the production of a Council record, then the CEO must allow such access and the inspection is carried out.
- Any FOI application under the Information Act for access to records shall follow the procedures set out in the relevant Act.
- A Councillor, in order to access records or files, is required to:
 - Not remove documents from files or remove any files or documents from Council's premises other than copies made available by the designated staff member; and
 - Ensure that all copying of documents or files is undertaken by the designated staff member.

Approval and Review History

Date	Comment
8 June 2012	Adopted by Council (OC339/2012)
25 January 2017	Revised and adopted by Council (CRN: OC011/2017)

Related documents

Nil