

# COUNCILLOR ACCESS TO INFORMATION

INFORMATION SHEET  
December 17

This information sheet covers the provision of information to councillors by a general manager and the changes that have resulted from the *Local Government Amendment (Targeted Review) Act 2017*

## Things to consider

- A relationship of trust between the general manager and councillors.
- General managers are to generally provide information that is relevant.
- Councillors should be mindful not to over-burden the general manager with requests.

## Information that can be requested

The *Local Government Act 1993* (the Act) entitles councillors to:

- information and documents required to perform any councillor functions (section 28A to 28C); and
- documents relating to council and committee meeting agendas (section 28D).

The processes for requesting these kinds of information are separate, but there are important similarities:

- the council must have the information or documents;
- requests for information or documents must be made in writing to the general manager; and

- if the information or documents are given to one councillor, the general manager must make them available to other councillors on request.

## Documents relating to agendas

- Councillors are entitled, on request, to be provided with copies of any documents the council has that directly relate to items on council or committee meeting agendas.
- Councillors must specify, in writing, the document name, title or subject matter.
- The general manager may refuse to provide documents if the councillor has a pecuniary interest or has refused to give a confidentiality undertaking.

## Confidentiality

- If the general manager considers information or documents are confidential, he or she may require councillors to give an undertaking to maintain that confidentiality.
- If the councillor refuses, the general manager may withhold the information or document (section 28C).

## Information and documents relating to functions

Councillors may request the general manager provide any information or documents that “may be required for the purpose of performing any of the councillor's functions”.

The functions of councillors are to represent and act in the best interests of the community, facilitate communication by the council with the community, participate in the activities of the council and to undertake duties and responsibilities as authorised by the council (sections 27).

When making a request a councillor must:

- state in writing the relevance of the information or documents to any of the councillor's functions; and
- declare he or she does not have, and is unlikely to have, any pecuniary interest in the matter if it is to be an item on the agenda of a council or committee meeting.

## Refusal to provide information

Under section 28A of the Act the general manager may refuse a request if:

- he or she believes the request would unreasonably extend council resources;
- he or she considers the information or documents requested are not required for performing any of the councillor's functions;

- the councillor has declared a pecuniary interest; or
- the councillor has refused or failed to declare a pecuniary interest.

If the general manager refuses to provide information or documents to a councillor, he or she must advise the councillor of the reasons in writing.

## Appeal to the council

Under section 28B of the Act, if the general manager refuses to provide information or documents, a councillor may seek a council decision requiring the general manager to make the information available. The general manager must comply with the decision.

The only exemption from this appeal provision is information or documents that “may disclose information relating to the personal affairs of any person”.

## Advice of a qualified person

Section 65 of the Act has been amended as a result of the *Local Government Amendment (Targeted Review) Act 2017*.

This section now requires that a copy of any qualified advice is provided to the councillors in writing before the councillors decide on a matter that requires qualified advice. If the qualified advice was given orally, the general manager is to provide a written transcript or summary of the oral advice to the councillors.

This amendment aims to ensure that such advice is adequately recorded and is accurate. Providing qualified advice in writing ensures that all elected members receive the same advice, which supports effective decision making, transparency and accountability.

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