

EM07: Elected Members Access to Information

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Policy Statement

The Belyuen Community Government Council is committed to ensuring that elected members have access to sufficient information to ensure that they can undertake their role under the *Local Government Act* and exercise due diligence in their decision making. The Council is also committed to ensuring that the public, other elected members and staff of the council are protected from undue intrusion into their private affairs.

Legislative Reference

Local Government Act 2008 section 130(3)

Local Government Act 2019 section 206(3)

Information Act 2002

Scope

This policy applies to all Elected members and members of Council committees.

Policy Provisions

Rights of Access to Information

Elected members 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 Elected Members

Elected members have a right to inspect any record of the Council provided that the record is relevant to the exercising of the Elected Member'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 an Elected Member is merely curious. The statutory role and duties of President, Elected members 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.

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- Elected members 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.
- Elected members 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 an Elected Member, the President is subject to the same requirements of access as apply to other Elected Members.

Access by Elected Members to the Computer System

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

Use of Information by Councillors

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

Elected Members have a role both as a member of the governing body of the Council and as an elected person and there may be difficulty for Elected Members to reconcile the two areas of responsibility when dealing with Council information and documents. While it is desirable and in the public interest to maintain open government, not all information available to Elected Members is available to members of the public.

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

The right of Elected Members to have access to records is for the purpose of exercising their responsibilities under the Act does not carry with it the right to disclose any information obtained by a Elected Member to another person, unless that information is already in the public domain (for example, part of the Council Agenda).

An Elected Member 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 Elected Member information that was made available through the President's role. Elected members shall not by-pass of FOI provisions of the Information Act by providing to a member of the public information made available to Elected Members as an elected representative.

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

Breaches

Breaches of Privacy Policy constitute misconduct and will be dealt with in accordance with the applicable policy. Instances of misconduct may be reported to the Independent Commissioner as per the *Independent Commissioner Against Corruption Act 2017*.

Definitions

CEO, of a council, means the council's chief executive officer as appointed under LGA section 165(1), who is in charge of day-to-day operations of the council.

Deputy CEO, of a council, see LGA section 165(2).

deputy President, of a council, means the member appointed by the council to be the deputy principal member under section 61(3).

guidelines mean guidelines made by the Minister under LGA section 342

member means (according to context) a member of an audit committee, a council or a council committee.

President, of the council, means the member appointed or elected to be the principal member under LGA section 60 or 61.

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

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

Revision History

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1	28/7/2020	8.3.7.20	NA