

	<h1>District Council of Cleve</h1>	Version No:	5.0
		Issued:	August 2022
		Next Review:	July 2026

Policy Name: **9.10 – Council Member Access to Information**

1. INTRODUCTION

Council members require access to certain information in order to perform their functions and duties, in particular to assist them in making informed decisions. The Local Government Act 2021 provides the legislative basis for this access.

This policy seeks to facilitate appropriate access by Council members to relevant documents and other information held by Council.

2. POLICY OBJECTIVES

The objectives of this policy are:

- to promote the accessibility of information to Council members
- to balance the important considerations of access to information by Council members, and the need to carefully manage sensitive, personal, private and confidential information, the public availability of which may cause detriment to the Council, the community or another party; and
- to facilitate informed decision making in an environment of mutual trust and respect for the respective functions, roles and responsibilities of Council members and staff.

3. LEGISLATION

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.

Section 59 of the Local Government Act 2021 sets out the role of a Council member.

Section 62(3) of the Local Government Act 2021 covers improper use of information and specifically states:

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 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 .

Section 251(1) of the Criminal Law Consolidation Act 1935 addresses the issue of abuse of public office.

Suspected breaches of any of this legislation will be investigated under the Independent Commissioner Against Corruption Act 2012.

4. POLICY

In general, a Council member will be provided access to all documents held by Council unless they are irrelevant to the member's function or duties.

Council members will not be granted access to documents regarding the personal affairs of Council staff, except for the Register of Interests that is required to be maintained under Section 66 of the Local Government Act and be made available for Council members' inspection upon request as per Section 118 of the Local Government Act.

5. PROCEDURES

A request for access to a Council document under Section 61 of the Local Government Act may be directed in the first instance to the Chief Executive Officer. The request may be made in person, by phone or in writing, e.g. by email. The request should identify the document/s being sought with enough detail for the document/s to be identified and retrieved and state the reason(s) for the request.

5.1 Consideration of Request

Unless there is a clear reason to the contrary, a Council member will be provided access to the document/s if they are held by Council. Where access to a document is not provided, the reason is to be provided to the Council member in writing.

5.2 Provision of Access to Documents

The form of access to the document/s will be negotiated with the Council member to accommodate the needs of the member and administrative efficiency. Where the document is publicly available, e.g., posted on Council's website, the member may be provided with a hard copy or sent a link to the relevant page on the website.

Where access is granted to a document that is not publicly available and there is no sensitivity to the document, a copy of the document will be provided to the member in an agreed form.

Where there is a degree of sensitivity or there are other reasons to restrict distribution of the document/s (e.g. if the documents contain legal advice, confidential information or internal corporate information) access may be limited to 'view only' access at a mutually convenient time at District Council of Cleve. Email advice confirming the 'view only' access arrangements will be sent to the member.

6. PROCEDURES AT MEETINGS REGULATION 18

Local Government (Procedures at Meetings) Regulations 2000, Regulation 18 has the effect of requiring the 'tabling' of a document before a vote of the Council or Committee on a matter related to that document. The determination of the application of Regulation 18 is the responsibility of the Presiding Member at the meeting, if necessary advised by the Chief Executive. Where the Presiding Member refuses to require a document to be 'tabled', the refusal and the reasons for the refusal are to be recorded in the minutes of the meeting. The determination of the Presiding Member in relation to Regulation 18 may be changed by resolution of the relevant meeting.

7. REQUESTS FOR OTHER INFORMATION

Where the information being sought is not in the form of existing Council document/s, and the request requires more than a simple response, it will be treated as a request for a report to Council. The timeframe for reporting will be driven, to an extent, by the time required to research the information and prepare the report in a way that responds effectively to the issues raised and the urgency of the matter.

8. OTHER ISSUES

This policy does not limit the rights of a Council member to use the Questions on Notice (Regulation 9) or the Notice of Motion (Regulation 12) provisions of the Local Government

(Procedures at Meetings) Regulations 2000 to seek answers to questions or to request that a report be prepared on certain issues.

Nor does this policy restrict a Council member from exercising their rights as a citizen to use the provisions of the Freedom of Information Act 1991 to seek access to certain documents held by Council.

9. COUNCIL ENDORSEMENT

This Policy was adopted by resolution of the Council on 16 August 2022.

10. REVIEW AND EVALUATION

This Policy is scheduled for review by Council in July 2026.

11. AVAILABILITY OF POLICY

This policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.cleve.sa.gov.au. Hard copies of the policy can be obtained upon request and payment of the relevant fee as per Council's schedule of fees and charges.