	<p style="text-align: center;">Access to Information by Elected Members Policy <i>Policy No. GOVPOL 08</i></p>	Version No:	4
		Responsible Officer/s:	Governance Officer
		Classification:	Council
		Issued:	20 December 2010
		Next Review:	June 2027

1. Purpose

1.1. Section 61 of the *Local Government Act 1999 (the Act)* provides that:

“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.”*

1.2. In addition, an Elected Member has a common law duty to keep himself/herself informed on all matters to enable him/her to properly discharge his/her duty as a member of council.

1.3. The principle of access to information by Elected Members is premised, both at common law and under the Act, upon access being required for the performance or discharge of Elected Members’ functions and duties of office.

1.4. This Policy provides guidelines for access to information by Elected Members and balances the important considerations of access to information by Elected Members of the Council in fulfilling their legislated roles and functions, and the need to carefully manage sensitive information, the disclosure of which may cause detriment or disadvantage to the Council, the community or another party.

1.5. The Council wishes to promote the accessibility of information to Elected Members within the framework of legislation and principles of law.


2. Scope

This Policy applies to the Mayor and all Elected Members of the District Council of Grant.

3. Definitions

Mayor the Principal member of the Council representing the District Council of Grant

Elected Members members of the governing body of the Council

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4. Policy

4.1. Requests for Information

4.1.1. Requests for access to information must be directed in the first instance to the Chief Executive Officer (“**the CEO**”).

4.1.2. The request must:

- (i) be in writing;
- (ii) identify the document that is sought with enough specificity that the document may be identified and retrieved; and
- (iii) outline the reason(s) for the request.

The CEO will then consider the application.

4.1.3. In considering a Request for Information, “Information” includes but is not limited to any form of information whether kept in electronic or hard copy, any documents, reports and electronic recordings whether oral or visual.


4.2. Consideration of Request

4.2.1. The CEO will consider a request by an Elected Member for information, taking into account the relevance of the information to the performance and discharge of the functions and duties of Elected Members of the Council and the role of Elected Members of Council. For example, the fact that a matter to which the information in question relates is currently before the Council for consideration is likely to be regarded as sufficient to satisfy the test of relevance. However, where a matter has been dealt with, such a matter is no longer considered to be currently before Council for consideration.

4.2.2. The CEO may require a Member to demonstrate the relevance of the information sought to the performance or discharge of his or her functions or duties before access is provided. An Elected Member must show that the document is required for the proper performance or discharge of his or her functions or duties.

4.2.3. In some cases it may be appropriate for the Council as a whole to consider the application for access to information. In those instances the Elected Member who made the request will be notified by the CEO that the matter will be referred to the Council.

4.2.4. If the CEO, or the Council, as the case may be, does not consider that the “relevance test” has been met, i.e. that the information is relevant and required for the performance and discharge of an Elected Member’s functions and duties, then consideration will be given to the “need to know test”. Notwithstanding that the relevance test has not been satisfied, access may be given if the Elected Member can demonstrate the information is needed for the proper discharge of his/her duties. In that instance the motives of the Elected Member are important in deciding whether he/she should be entitled to have access to the information in question. If there is an ulterior motive, access to information may be

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denied. This test is to be applied from the perspective of the whole of the Council membership, not the individual Member making the request.

- 4.2.5. If the “relevance” or “need to know” test is satisfied, then access to the information will be provided, in a manner specified in this Policy or as otherwise determined by the CEO.

4.3. Provision of Information


- 4.3.1. The CEO will determine the form of the information to be provided to an Elected Member pursuant to the details of the request.
- 4.3.2. The CEO will determine if the information to be provided should be provided in full or in part pursuant to the details of the request, and the nature and form of the information being provided.

4.4. Sensitive Information

- 4.4.1. If the information sought contains legal advice, confidential information, internal corporate information or other kinds of sensitive information that the CEO considers warrants cautious management, then access may be provided in the form of viewing only, without the provision of a copy of the requested information being provided.
- 4.4.2. If a request for access to information is granted, then all Elected Members will be advised, and if a copy of the information is provided then all Elected Members will receive a copy.
- 4.4.3. The CEO may advise an Elected Member or Elected Members to whom access is granted to information under this Policy, that the contents of the information is, or should be considered as, confidential. All Elected Members in receipt of such confidential information are obliged to comply with his/her obligations and duty of confidentiality.
- 4.4.4. If in the opinion of the CEO, the release of a document the subject of a request, will require the Council to obtain legal advice or consume more than two hours of Council staff time to retrieve, then the CEO may delay the consideration of the request pending the receipt of legal advice or until the information has been retrieved.
- 4.4.5. Where a request for information by an Elected Member is in respect of, or involves the Elected Member, particularly where legal processes are underway that affect that Elected Member, then such information will not be provided. This is notwithstanding that a Freedom of Information Application (FOI) may be lodged with Council by the respective Elected Member.

4.5. Dispute Resolution

- 4.5.1. If the CEO and an Elected Member are not in agreement on access to information, the Mayor shall be authorised to obtain legal advice and provide the same to the remaining Elected Members for a formal Council decision.

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5. Responsibilities

The Chief Executive Officer or a person with delegated authority from the Chief Executive Officer must ensure the requirements of this Policy are met.

6. References / Other Documents

6.1. Legislation

Local Government Act 1999 (section 61)

6.2. Council Policies / Procedures

Code of Conduct for Council Members

Code of Practice for Meeting Procedures

Elected Members Allowances and Support Policy

Elected Members Training and Development Policy

7. Review

This Policy shall be reviewed by the District Council of Grant at a minimum, once within every four (4) year Council term (or on significant change to legislation or other matters which could affect this policy).

Action	Date	Minute Reference
Adopted by Council	20 December 2010	10332.4
Reviewed	23 April 2014	14052.7.5
Amended	6 June 2016	16067.4.1
Amended	24 June 2019	19078.5
Minor formatting amendments	4 May 2020	Governance Officer
Amended	19 June 2023	23125