City of Kwinana Council Member, Committee Members and Chief Executive Officer Communications Agreement



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City of Kwinana Communication Agreement

Schedule 1 — communications agreement

Division 1 — Preliminary provisions

1. Introduction

For the purposes of the *Local Government Act 1995* (the **Act**), this is the City of Kwinana (the **City)** communications agreement between the council (the **council**) and the Chief Executive Officer (the **CEO**) of the City.

Effective communication between council members, committee members (collectively referred to as Members) and the City administration is vital for good governance, informed decisions and community focused outcomes.

This Council Members, Committee Members and Chief Executive Officer Communication Agreement (Agreement) offers a structured framework for interactions between Members, the Chief Executive Officer (CEO), and City Officers.

The Agreement outlines the procedures for requesting and responding to information, protocols for interactions outside of formal meetings, and expectations regarding professional conduct, aligned with the *City of Kwinana Elected Members, Committee Members and Candidates - Code of Conduct and the* City's *Employees Code of Conduct* and all relevant policies and procedures.

The provisions of this Agreement are intended to align with the Act and relevant regulations.

2. Terms used

(1) In this agreement:

Act has the meaning given in clause 1;

administrative matter, in relation to a council member or committee member, means the following;

(a) the scheduling of council meetings or committee meetings;

(b) the council member's or committee member's compliance obligations under the Act, including in relation to disclosure of financial interests and gifts;

(c) information technology support for the council member or committee member;

(d) arrangements for the council member or committee member to attend training or a conference;

(e) event invitations received by the council member or committee member;

(f) the council member's or committee member's entitlement to a fee, allowance, reimbursement or superannuation contribution payment under the Act; or

(g) any other matter of an administrative nature;

administrative request means a request that is either or both of the following;

(a) an administrative request for information;

(b) a request for administrative assistance.

administrative request for information means a request for information that relates only to an administrative matter;

appropriate nominated employee means the following;

(a) in relation to a request for information, an employee nominated in relation to;

  (i) all requests for information; or

  (ii) a type of request for information that includes the request for information;

(b) in relation to a media enquiry to be discussed under clause 11(1), an employee nominated in relation to;

  (i) all media enquiries; or

  (ii) a type of media enquiry that includes the media enquiry;

(c) in relation to a request for administrative assistance an employee nominated in relation to;

  (i) all requests for administrative assistance; or

  (ii) a type of request for administrative assistance that includes the request for administrative assistance;

CEO means the Chief Executive Officer of the City of Kwinana

City means the City of Kwinana

committee means a committee of the council;

council means the council of the City of Kwinana;

employee means an employee of the City of Kwinana;

Mayor includes a councillor performing the functions of the Mayor under Part 5 Division 3 of the Act;

request for administrative assistance means a council member or committee member may make a request for assistance regarding an administrative matter;

request for information, in relation to a local government, means a request for;

(a) access to information held by the local government under section 5.92 of the Act or otherwise; or

(b) other information;

requesting member, in relation to a request for information or a request for administrative assistance, means the council member or committee member who made the request;

working day means a day other than;

(a) a Saturday or a Sunday; or

(b) a public holiday throughout the State; or

(c) a public holiday in an area that is or includes the district or any part of the district.

(2) If any other term used in this Agreement is given a meaning in section 1.4 of the Act or the *Interpretation Act 1984* section 5, it has the same meaning in this agreement.

(3) A reference in this Agreement to a council member or committee member performing a function under a written law other than the Act does not include a reference to the council member or committee member performing a function in a capacity other than that of council member or committee member under the Act.

3. Application

(1) This Agreement applies to a person who is a council member, committee member or employee when acting in their capacity as such.

(2) Despite subclause (1), this Agreement does not apply to anything that a council member, committee member or employee does as part of:

(a) the deliberations at a council or committee meeting; or

(b) recruiting, reviewing the performance of or terminating the employment of the CEO in accordance with the adopted standards.

Division 2 — General provisions

4. General principles

The council and the CEO agree to the following general principles:

(a) the CEO will support the Members to perform their functions under the Act and any other written law;

(b) without limiting paragraph (a), the CEO will ensure that;

  (i) requests for information and requests for administrative assistance made by a member is responded to in accordance with this agreement; and

  (ii) employees deal and communicate with the Members in accordance with this agreement;

(c) Members will ensure that;

  (i) their dealings and communications with employees are in accordance with this agreement; and

  (ii) their requests for information and requests for administrative assistance are made in accordance with this agreement;

  (iii) they only request information that is relevant to their functions under the Act or any other written law; and

  (iv) in accordance with the City of Kwinana relevant policies and procedures

5. Correspondence sent by Mayor on behalf of the City

Where prescribed by regulations, the CEO will ensure that all Members receive details of formal, executed documents sent by the Mayor on behalf of the City.

6. Nominated employees

As outlined in the below Annexure, the CEO has designated the appropriate employees responsible for handling requests for information and administrative assistance. The Annexure specifies the types of information requests and identifies the relevant employee to whom such requests should be directed.

The Annexure may be updated to reflect changes in position titles and areas of responsibility as needed. The CEO is responsible for making these amendments, and Members will be informed when such changes occur. Only amendments related to

position titles and areas of responsibility are permitted.

7. CEO may direct who responds

Despite anything else in this agreement, the CEO may direct which employee is to respond to a particular request for information or request for administrative assistance.

Division 3 — Requests for information generally

8. Information that may be requested

All Members are entitled to access information that is necessary for them to perform their functions, in accordance with section 5.92 of the *Local Government Act 1995* and Regulation 29 of the *Local Government (Administration) Regulations 1996*.

Requests for information must relate to a function or responsibility under the Act or other relevant legislation. These requests should be specific in scope, include relevant background information, and be submitted in writing to the CEO and when relevant a nominated employee. Access may be restricted where the information is confidential, legally privileged, or not relevant to the Members role.

Members are expected to use any information obtained through their role responsibly and in accordance with the relevant policies, procedures, and all relevant confidentiality obligations. This includes adhering to the requirements under section 5.93 of the *Local Government Act 1995*, which prohibits the improper use of information acquired in the performance of their duties.

Specifically, Members must not disclose information obtained from confidential documents or from closed meetings, except where the information has also been made available through non-confidential sources. Additionally, Members must not use information gained through their position to obtain a personal or third-party advantage or to cause detriment to the City or any other person/s.

These obligations exist alongside, and do not limit, a Members right to seek access to information under the *Freedom of Information Act 1992*.

9. Certain information not required to be provided

Information may be withheld if the request is not made in accordance with this agreement, or if the information is of a kind that is excluded under section 5.92(4) of the Act, such as but not limited to information that is confidential or legally privileged.

Additionally, the City is not required to provide information that it does not hold, and that is held by another person or body and cannot be reasonably obtained. The CEO may also refuse a request if responding would unreasonably divert a substantial portion of the City's resources away from its core functions. These limitations ensure a fair and efficient process for accessing information, while protecting the City's operational capacity.

10. Disputes regarding final response to request for information

If a request for information is denied in part or in full, the requesting Member has the right to dispute the final response by notifying the CEO in writing. This dispute must then be discussed in a meeting involving the Mayor, the CEO, and the requesting Member.

If the issue remains unresolved after this meeting, the Member may escalate the dispute to the council for a determination. Importantly, the council's decision on the matter can override the CEO's original decision, and such a determination is considered final. This process ensures that there is a clear pathway for Members to challenge information refusals while balancing administrative oversight and council authority.

11. Mayor may discuss media enquiry without making request for information

(1) The Mayor may discuss a media enquiry with the CEO or an appropriate nominated employee, either verbally or in writing, without making a request for information.

(2) Subclause (1) does not prevent the Mayor from making a request for information in relation to a media enquiry.

Division 4 — Requests for information

12. Making a request for information

Members are required to submit requests for information to the Chief Executive Officer and the relevant nominated employee, as specified in the below Annexure. Such requests must be made in writing and should include both the details of the information sought and the relevant background to the request.

13. Receipt of request must be acknowledged

The CEO or nominated employees must ensure that receipt of a request for information is acknowledged in writing within 2 working days after the day on which the request is made.

14. Request may be discussed and amended

For the purposes of responding to a request for information, the CEO or the nominated employee may do either or both of the following:

(a) discuss the request for information with the requesting Member, including for the purpose of clarifying the scope of the information the subject of the request.

(b) if the requesting Member requests an amendment to the scope of the information the subject of the request for information deal with the request for information as if it were so amended.

15. Responding to a request for information

(1) The CEO must ensure that the requesting member is given a final response to their request for information as soon as practicable.

(2) If a request for information relates to a matter included in the agenda for an upcoming council or committee meeting, the CEO must make best endeavours to ensure that the requesting member is given a final response to the request before the meeting.

(3) Without limiting subclause (1) or (2), the CEO must ensure that, within 5 working days after the day on which a request for information is made, the requesting member is given;

(a) a final response to the request; or

(b) notice that if a final response cannot be given within that period and an estimate as to when a final response will be given.

(4) The final response to a request for information must;

(a) be in writing; and

(b) include any advice or other information provided in response to the request for information.

(5) If the final response includes a refusal to provide some or all of the information the subject of the request for information, the response must set out the reasons for that refusal.

16. When final response must be provided to other members

(1) A copy of the final response to a request for information given to the requesting member must be provided to;

(a) all council members; and

(b) if the final response is relevant to the work of a committee; any Members of the committee who are not council members.

(2) Subclause (1) does not apply if;

(a) the request for information is a request for advice regarding correspondence and the final response is provided to all Members who received the correspondence; or

(b) the request for information is from the Mayor for advice or other information regarding;

(i) publicly representing the local government at a media appearance or other event (including advice or other information in the form of a briefing or speaking notes);

(ii) correspondence to be sent by the Mayor;

(iii) arranging a formal meeting or an official event; or

(c) the requesting member and the CEO agree that;

(iv) the final response is confidential; or

(v) because of particular circumstances, it is appropriate not to provide the final response to all council members and relevant committee members under subclause (1).

17. Requesting member may discuss final response

The requesting member may communicate with the CEO or a designated employee about the final response to their information request, either verbally or in writing. During this discussion, the member may receive additional information intended to clarify or address any questions regarding the final response.

18. CEO may arrange for briefing, meeting or discussion in relation to final response

The CEO may arrange for some or all Members to attend a briefing, meeting or other discussion in relation to a final response to a request for information. During a briefing, meeting or other discussion arranged, Members may be provided with additional information for the purpose of clarifying, or addressing queries in relation to, the final response.

Division 5 — Administrative requests for information and requests for administrative assistance

19. Making an administrative request

A member may make a request (a **request for administrative assistance**) for assistance regarding an administrative matter. Administrative requests must be directed to the CEO or a nominated employee, as specified in the below Annexure, these requests may be made verbally or in writing. However, if made verbally, the CEO or nominated employee may require the request to be submitted in writing before proceeding. Written administrative requests must be submitted via email or a completed elected member form.

The CEO or nominated employee must provide a final response as soon as practicable. If a response cannot be provided within 5 working days, the member must be advised and given an estimated timeframe.

Final responses or confirmation of completion of the administrative requests may be provided verbally or in writing.

20. Responding to an administrative request

(1) The CEO or nominated employee must ensure that the requesting member is given a final response to their administrative request as soon as practicable.

(2) Without limiting subclause (1), the CEO or nominated employee must ensure that, within 5 working days after the day on which an administrative request is made, the requesting member is given:

  (a) a final response to the request; or

  (b) notice that a final response cannot be given within that period and an estimate as to when the response will be given.

(3) A final response to an administrative request may be given verbally or in writing.

Division 6 — Provision in relation to commissioner

21. Application of agreement to commissioner

This Agreement applies to a commissioner of the City as if the commissioner were the council and the Mayor.

22. Requests for information by commissioner

(1) Despite clause 21, a commissioner of the City may make a request for information or a request for administrative assistance to the CEO in the manner determined by the commissioner.

(2) The CEO must ensure that the commissioner is given a final response to the request made under subclause (1):

  (a) as soon as practicable; and

  (b) in the manner requested by the commissioner (which may include in writing or in a briefing).

(3) A dispute regarding a request made under subclause (1) must be determined by:

  (a) if there are joint commissioners and 1 of them is appointed to be the chairperson — the chairperson; or

  (b) otherwise — the commissioner who made the request.

OFFICER USE ONLY

Officers may amend this section without council approval.

Responsible Team	Governance and Legal	
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Annexure

Information and Administrative Requests

The following Officers have been nominated to assist with information and administration requests submitted by Council or Committee Members (Member). These Officers have been authorised by the Chief Executive Officer (CEO) to manage and respond to such enquiries in accordance with their respective roles and areas of responsibility. At such time a request for information is actioned to a nominated employee the Member must also notify the CEO.

The CEO has been excluded from the register, as they retain the overarching delegation to receive, respond to, and action all requests deemed appropriate. The Officers listed below serve as a primary point of contact for Members and their enquiries, however the Officers retains the right to seek guidance from their colleagues if deemed necessary to acquire the appropriate information, the Officer nominated is responsible for providing the formal response to the request, unless otherwise approved by the CEO.

***Note:**

1) **The below table may be updated to reflect changes in position titles and areas of responsibility as needed. The CEO is responsible for these amendments, and Members will be informed when such changes occur. Only amendments related to position titles and areas of responsibility are permitted.**
2) **An expanded version of the below table will be made available within the Elected Members portal, the extended version will provide the names and contact details of the Officer nominated to respond to the respective requests.**

Nominated Employees for Requests for Information		
Officer	**Responsible Area**	**Type of request relevant to the Officers responsible area**
Director of City Infrastructure	• Engineering • Asset Management Services • City Operations	A request for information may be for advice or other information regarding any of the following: a) a service, project or initiative being delivered by the City; b) how the City usually manages a particular matter issues, service or query: c) budgeting or financial information, including details of the costs of any services, project or initiative delivered or proposed to be delivered by the City: d) an issue or situation of broad public concern or interest within the district: e) preparing a motion to council or a committee f) correspondence received by the council or committee member g) an administrative matter.
Director City Life	• Koorliny Arts Centre • Community Development and Events/Engagement • Community Facilities Team • Community Services and Partnerships • Library • Recquatic	
Director City Development and Sustainability	• Environment and Health Services • Planning and Development • Building Services • Essential Services	
Manager Governance and Legal	• Governance and Legal • Risk Management • Council Meetings • Legal • Audit • Council Member Support • Corporate Plan • Lease and Land Administration	
Chief Financial Officer	• Budget • Contracts and Tenders – Procurement • Rates	
Manager Customer Communication	• Marketing and Communications • Media Releases	

Nominated Employees for Administrative Matter (Requests/Support)		
Officer	**Responsible Area**	**Type of request relevant to the Officers responsible area**
Council Governance and Administration Officer	• Council Members • Official meetings of Council • Local Government Elections	Administrative matter, in relation to a council member or committee member, means the following: a) the scheduling of council meetings or committee meetings; b) the council member's or committee member's compliance obligations under the Act, including in relation to disclosure of financial interests and gifts; c) information technology support for the council member or committee member; d) arrangements for the council member or committee member to attend training or a conference; e) event invitations received by the council member or committee member; f) the council member's or committee member's entitlement to a fee, allowance, reimbursement or superannuation contribution payment under the Act; g) any other matter of an administrative nature.
Executive Assistant to CEO and Mayor	• Mayoral Enquires	
Manager Governance and Legal	• Council Members • Official meetings of Council • Local Government Elections • Governance and Compliance Obligations	