Communications Agreements

Discussion Paper

June 2025

Local Government Submissions to WALGA are requested by **4pm, Monday 28 July 2025** to **governance@walga.asn.au**

For more information, please contact Tony Brown on 9213 2051 or Felicity Morris on 9213 2093.

Submission Format

This Discussion Paper has been designed to enable Local Governments to insert responses in the form field provided for each section of the Discussion Paper.

Local Governments can choose to respond to only some sections or questions, and are also welcome to provide a submission in an alternative format.

Please also provide your Local Government details below.

Local Government Name:	**Shire of Cunderdin**	
Submission was prepared and endorsed by:		
☒	**Council Resolution / Meeting Date:**	Click or tap here to enter text.
☐	**Council Member Workshop / Forum** (without Council resolution)	
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1. Background

Communications Agreements were outlined in the Minister for Local Government's Reform Proposals released in 2022.

Following sector consultation, WALGA adopted the following advocacy position in relation to Communication Agreements:

> *2.5.3 Council Communication Agreements*
>
> *The Local Government sector supports the introduction of a consistent, regulated Communications Agreement between Councils and the CEO within Local Governments.*

Amendments to achieve this reform were included in the *Local Government Amendment Act 2023* but are yet to take effect:

- Amendments to Section 5.92 of the *Local Government Act 1995* (the Act) to provide that the right of a Council Member or Committee Member to access information under that section must be exercised in accordance with the Local Government's communications agreement.
- New section 5.92A requiring every Local Government to have a communications agreement between the Council and the CEO regulating the matters specified in the Act and regulations.
- New section 5.92B requiring the Minister to make Ministerial Order setting out a default communications agreement which applies at any time a Local Government does not have its own communications agreement.
- New section 5.92C enabling Local Governments to adopt and amend its own communications agreement with the agreement of the CEO, which will expire at the end of every caretaker period, and upon the end of the CEO's employment with that Local Government.

On 5 June 2025, the Department of Local Government, Sport and Cultural Industries (the Department) published the draft Local Government Regulations Amendment Regulations 2025 (the Draft Regulations) and draft Local Government (Default Communications Agreement) Order 2025 (the Draft Order). The Department has also published a Communications Agreement Consultation Paper (the DLGSC Consultation Paper) which explains the Draft Regulations and Draft Order.

The Draft Regulations prescribe the minimum requirements for all communications agreements and provide the mechanism to require compliance by Local Government employees, Council Members and Committee Members.

The Draft Order sets out what is proposed to be the default communications agreement in Schedule 1. As all Local Governments will be subject to this default agreement on a regular basis (at least every two years after each caretaker period and after a CEO's employment ends) as well as at any time an agreement cannot be reached between Council and the CEO, it is critical that the default agreement is fit for purpose.

2. Discussion paper

The following discussion paper provides preliminary WALGA comments and questions on the Draft Regulations and Draft Order for consideration by Local Governments.

Part 2.1 of this paper deals with the Draft Regulations. Where the corresponding content of the Draft Order is relevant to the discussion of the issue, it is included in this part.

Part 2.2 deals with matters that appear only in the Draft Order.

All clause references are to Schedule 1 of the Draft Order.

2.1. Draft Regulations

2.1.1. General drafting approach

WALGA Comment

The Draft Regulations and Draft Order are quite detailed and prescriptive. Some detail may be necessary to provide clarity and achieve an appropriate balance. It is essential that all parties understand their responsibilities, as breaches would constitute a breach of the Code of Conduct for Council Members, Committee Members and Candidates, or the Employee Code of Conduct. However, the level of prescriptive detail in the Draft Regulations and Draft Order may be restrictive for Local Governments seeing to develop locally appropriate approaches.

Questions

1. Do the Draft Regulations and Draft Order have an appropriate level of detail, or could they be simplified?

Local Government Response:
It Is very prescriptive, suggest the default agreement Is simplified to allow the CEO/Council determine how it is to be applied relevant to individual LG needs and preferences.

2.1.2. Commencement and implementation

The Draft Regulations state that they will commence on 19 October 2025, the day after the Ordinary Local Government Elections. This means that the default communications agreement set out in the finalised Ministerial Order would apply to all Local Governments from this date.

WALGA comment

The lead up to Local Government elections is a very busy time for Local Governments. Many Local Governments devote considerable resources to preparing induction materials for new Council Members. These materials and any induction programs will need to provide both commencing and continuing Council Members with an understanding of the default communications agreement. In addition, Local Governments will need to establish the appropriate administrative processes to

implement the default communications agreement. To complete these preparations, Local Governments will need to know the final content of the regulations and order.

Questions

2. What would be a reasonable period to allow Local Governments to prepare for implementation of the default communications agreement after publication of the final regulations and order?

Local Government Response:
Given the fianl document may not be available until September /October It Is unrealistic to have LG Impliment this on the 19 October 2025. 1 July 2026 would be a more realistic deadline or 31 December 2025 If they feel It needs to be pushed.

2.1.3. Providing correspondence sent by Mayor or President to all Council Members

Draft Regulations

Regulation 7 of the Draft Regulations would insert a new Regulation 28C in the *Local Government (Administration) Regulations 1996* prescribing that communications agreements must regulate the circumstances in which correspondence sent by the Mayor President on behalf of the Local Government must be provided to all Council Members. This is an additional matter that was not specified in the Act amendments.

Draft Order

To meet this requirement, clause 5 of the Draft Order requires correspondence sent by the Mayor or President on behalf of the Local Government to be provided to all Council members, unless the Mayor or President is satisfied that particular circumstances mean it is appropriate not to provide the correspondence. The DLGSC Consultation Paper advises that this should only occur in "exceptional circumstances" and could otherwise constitute a breach of the communications agreement by the Mayor or President.

WALGA Comment

Depending on the Local Government, Mayors or Presidents may send a high volume of correspondence that could be understood as being on behalf of the Local Government. Providing copies of all this correspondence to all Council Members may be burdensome for the Administration, and for Council Members in receiving high volumes.

To avoid breaching the communications agreement, the Mayor or President would need to have a record of each decision and the circumstances that make it appropriate not to provide correspondence to all Council Members.

Questions

3. Is it necessary for all communications agreements to address the provision of Mayor / President correspondence to Council Members?

4. Is clause 5 of the Draft Order appropriate and workable for your Local Government? Are any changes required?
5. Would it be useful for the Draft Order to:
    a. specify types of correspondence that must be provided to all Council members, unless decided by the Mayor or President? For example, correspondence that relates to advocacy, communications with government agencies or elected representatives, major stakeholders, or communicating Council decisions.
    b. allow the Mayor or President to decide that certain categories of correspondence do not need to be provided? For example, letters of appreciation and congratulations.
    c. allow for alternative methods of making the correspondence available to Council Members rather than providing a copy? For example, allow Local Governments to provide a list of correspondence that Council Members may access on request, or publish correspondence on an Elected Member portal.

Local Government Response:
It is not necessary for all correspondence sent by the President to be provided to all Council members at the time it is being sent. It should not be the CEO's responsibility to provide the correspondence from the Mayor/President. The Mayor/President's should be responsible for coping all Councillors into applicable correspondence out. A register could be held of all correspondence sent by the Presient, which is available to all Councillors.

2.1.4. Requests for information – definition and scope

Draft Regulations

Regulation 7 of the Draft Regulations would insert a new Regulation 28D in the *Local Government (Administration) Regulations 1996* which prescribes the content of communications agreements. The regulation distinguishes between administrative matters and requests for information and prescribes definitions as well as the content that must be included in relation to each type of request.

The definition of request for information in regulation 28D(1) is as follows:

> ***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 or otherwise; or
> (b) other information.

This definition is also used in regulation 10(2) of the Draft Regulations for a consequential amendment to the *Local Government (Model Code of Conduct) Regulation 2021*.

As this definition is prescribed in the Draft Regulations, it will apply to all communications agreements, not just the default agreement.

Draft Order

Clause 3(1) provides that the default communications agreement applies to a person only when acting in their capacity as a Council Member, Committee Member or employee.

Clause 4 provides general principles, including that Council and Committee Members will ensure they only request information that is relevant to their functions under the Act or any other written law.

Division 3 sets out the requirements regarding requests for information. Clause 11 of the Draft Order repeats the prescribed definition when stating that a Council Member or Committee Member may make a request for information. Clause 14 specifies that nothing in the agreement requires certain information to be provided, including "information mentioned in section 5.92(4) of the Act".

WALGA comment

Section 5.92(1) of the Act allows a Council Member or Committee Member to "have access to any information held by the local government that is relevant to the performance by the person of any of the person's functions under this Act or under any other written law" (emphasis added). This is a broad right of access, requiring only relevance to the performance of a statutory function.

Section 5.92(4) clarifies that the section does not give a Council Member or Committee Member the right to access specified information, including certain employee information, any personal information about individuals that is not relevant to a Council or Committee decision, information the Local Government is prohibited or restricted from disclosing to the Council Member or Committee Member under a written law, and information that is not relevant to the functions of the Council Member or Committee Member under the Act or any written law.

The definition of ***request for information*** expands significantly beyond requests under section 5.92. It is unclear what is intended by "or otherwise" in part (a) of the definition. Further, the inclusion of "other information" in part (b) is so open-ended, it may make any limitations imposed by (a) almost meaningless.

As the Draft Order only applies when a person is acting in their capacity as a Council Member or Committee Member, it is difficult to understand what "other information" could be required that is not relevant to a statutory function.

Council Members may interact with the Local Government in their personal capacity and request and gain access to information as customers of the Local Government. These ordinary citizen transactions would not be subject to the communications agreement. Similarly, all members of the public have a right to inspect and receive copies of Local Government information in accordance with s5.94, 5.95, 5,96 and 5.96A of the Act, and public information prescribed under other written laws. These public access rights would not be subject to the communications agreement.

The expansive definition appears to be inconsistent with other provisions of the Draft Order. Clause 4 uses the wording of section 5.92, stating that Council and Committee Members agree to only request information that is relevant to their functions under law. Clause 14(b) of the Draft Order confirms that a Council Member or Committee Member is not required to be provided with information mentioned in section 5.92(4) of the Act. As noted above, section 5.92(4)(f) refers to information that is not relevant to the performance of a function under law.

The result may be that a Council Member or Committee Member may *request* information under clause 11 that they must agree not to request under clause 4(c)(iii), that they do not have a statutory right to access, and that clause 14 confirms that they are not required to be provided.

Questions

6. Should the words "or otherwise" and "other information" be deleted from the definition of ***request for information***?
7. Do Local Governments identify any risks arising from the definition of ***request for information*** in its current form?
8. Does the definition of ***request for information*** create inconsistency with section 5.92 of the Act and clauses 4 and 14 of the Draft Order?
9. Should the definition of ***request for information*** be revised to refer only to requests made under s.5.92?
10. Are there any other comments on the scope or definition of ***request for information***?

Local Government Response:
The words "or otherwise" and "other Information " should be deleted from the definition. The definition of "request for Information" Is far to broad and ambiguous and creates an inconsistency with Section 5.92. The request for Information should align with s5.92.

2.1.5. Administrative matters – definition and scope

Draft Regulations

Regulation 7 of the Draft Regulations would insert a new Regulation 28D in the *Local Government (Administration) Regulations 1996* which provides definitions and prescribes the content of communications agreements. The regulation distinguishes between administrative matters and requests for information and prescribes definitions as well as the content that must be included in relation to each type of request. The definition of administrative matter lists the scheduling of council or committee meetings, compliance obligations under the Act, IT support, training and conference arrangements, event invitations, entitlements and “any other matter of an administrative nature”.

Regulation 10(2) of the Draft Regulations would insert the proposed definition of administrative matter into clause 20(1) of the Model Code of Conduct for Council Members, Committee Members and Candidates (Sch 1 of the *Local Government (Model Code of Conduct) Regulations 2021)*.

Draft Order

Clause 2 of the Draft Order repeats the definition of administrative matter and defines administrative request for information. Clause 25 defines administrative request as either or both of an administrative request for information or a request for administrative assistance. Clause 26 defines a request for administrative assistance.

Division 5 of the Draft Order deals with administrative requests for information and requests for administrative assistance. Clause 26 provides that a Council Member or Committee Member may make a request for administrative assistance, while clause 27 provides the process for making an administrative request. Administrative requests may be made verbally or in writing

WALGA Comment

Local Government officers regularly provide routine information and support to Council Members and Committee Members. It seems reasonable to provide for a separate category of requests that may be dealt with in a simplified way, and with no requirement to provide responses to all Council or Committee Members.

The definition of administrative matter prescribed in the Draft Regulations may not be suitable for all Local Governments. WALGA suggests that an alternative definition could be as follows:

administrative matter in relation to a council member or committee member, means support or assistance provided to an individual council member or individual committee member to facilitate an administrative process related to that member, and may include:

(i) council and committee meeting scheduling, attendance, apologies, leave of absence, committee deputy member attendance, drafting a notice of motion or alternative motion.
(ii) attendance at professional development, training or events, associated speech writing, ceremonial protocols, travel, accommodation and incidental expense arrangements,
(iii) entitlements to a fee, allowance, reimbursement or superannuation,
(iv) personal compliance with obligations under the Act, Regulations, code of conduct, conflict of interest or gift disclosure requirements, record keeping,
(v) information and communication technology software or hardware provided by the local government,
(vi) any other matters specified as administrative matters in a local government's communications agreement.

Alternatively, the Draft Regulations could state that administrative matters are to be defined in the local government's communications agreement. The above alternative definition could be modified for use in the Draft Order.

Consideration could also be given to simplifying the language used in the Draft Order regarding these requests. It seems unnecessarily complex to have four defined terms to deal with simple day to day enquiries.

Questions

11. Do Local Governments support a separate process for administrative matters?
12. Is the Draft Regulation definition of ***administrative matter*** suitable for your Local Government?
13. Do you support the alternative WALGA definition above and/or have any other suggestions for the definition?
14. Should the regulations avoid a prescribed definition and allow ***administrative matter*** to be defined entirely in the communications agreement?
15. Are there any other comments on administrative matters?

Local Government Response:
Support the WALGA definition of "adminisrative matter"

2.1.6. Exclusions from application of communications agreement

Draft Regulations

The new Regulation 28D(3), to be inserted in the *Local Government (Administration) Regulations 1996* by Draft Regulation 7, provides that a communications agreement must specify it does not apply to anything a Council Member, Committee Member or Employee does as part of deliberations at a Council Meeting, or CEO employment processes.

Draft Order

Clause 3(2) of the Draft Order gives effect to these requirements.

WALGA Comment

These exclusions enable Council Members and Committee Members to communicate with employees under certain circumstances without being subject to the communications agreement. The respective codes of conduct would continue to apply to employees and Council or Committee Members.

Questions

16. Are these exclusions appropriate?

Local Government Response:
Support the exclusions.

2.1.7. Commissioners

Draft Regulations

New Regulation 28D(5) will require all communications agreements to include content enabling commissioners to make requests to any employee, to determine the manner information is to be provided and to resolve disputes.

Draft Order

Clause 29 provides that the communications agreement applies to a commissioner as if they were the Mayor or President and the Council of the Local Government. Clause 30 then modifies the application of the communications agreement to allow a commissioner to make a request to the CEO or any employee, in the manner determined by the commissioner and to specify the manner in which as response is to be provided. It also provides for a commissioner to resolve disputes.

WALGA Comment

Section 2.38 of the Act provides that any reference to Council, Council Member, Mayor or President in the Act or other written law applies to a commissioner. A Local Government's communications agreement would apply to commissioners on that basis, and a commissioner could adopt a new agreement with the CEO. It does not seem appropriate for a commissioner to direct requests to any employee of the Local Government.

Questions

17. Should the rights and responsibilities of commissioners under a communications agreement be consistent with the rights and responsibilities of Council, Council Members, Mayors and Presidents?
18. Is it inappropriate for a commissioner to make requests to any employee of the Local Government?

Local Government Response:
Support provisions pertaining to Commissioners.

2.1.8. Amendments to Model Code of Conduct

Draft Regulations

Regulation 10(4) of the Draft Regulations will amend clause 20 of the Model Code of Conduct for Council Members, Committee Members and Candidates (Sch 1 of the *Local Government (Model Code of Conduct) Regulations 2021)*. As a result, the prohibition on a Council Member directing or attempting to direct a local government employee will not apply to anything that a Council Member does as part of making a request in accordance with a communications agreement.

WALGA comment

Model Code of Conduct clause 20(2)(a) prohibits a Council Member from directing or attempting to direct a Local Government employee to do or not to do anything in their capacity as a Local Government employee.

This prohibition does not apply to anything done during deliberations at a Council or Committee meeting. The proposed amendment would expand the circumstances in which a Council Member may direct an employee.

The proposed amendment implies that a request for information or administrative request may be made in a manner that is an attempt to *direct* a local government employee and has the effect of allowing such direction without breaching Code of Conduct provisions.

Questions

19. Is it necessary or appropriate for a Council Member to be able to direct a local government employee when making a request in accordance with a communications agreement?

Local Government Response:
Requests for Information should be made through one emplyee only. This could be the CEO or a delegated employee.

2.3. Draft Order

2.3.1. Clause 4 General principles

Draft Order

Clause 4 of the Draft Order provides general principles for both the Council and the CEO, largely relating to acting and communicating in accordance with the agreement. This includes that the CEO will support Council Members and Committee Members in performing their functions under law, and that Council Members and Committee Members will only request information relevant to their functions under law.

Questions

20. Are there any additional principles that should be referenced in this clause?
21. Would it be beneficial to include a principle requiring that the communications agreement be applied in a manner that is consistent with the respective roles and responsibilities of Council and the CEO under the Act?

Local Government Response:
Yes it would it be beneficial to include a principle requiring that the communications agreement be applied in a manner that is consistent with the respective roles and responsibilities of Council and the CEO under the Act.

2.3.2. Clause 8 Nominated employees

Draft Order

Clause 8(1) enables the CEO to nominate employees for the purposes of the agreement.

Clause 8(2) requires the CEO to nominate minimum numbers of employees, depending on the Class of the Local Government.

Clause 8(3) allows employees to be nominated for all requests for information, or a type of request for information. Clause 8(4) allows employees to be nominated for media enquiries, requests for administrative assistance, or types of either of these.

Under clauses 16, 18, 20, 23 and 27 of the Draft Order, Council Members or Committee Members must make and discuss their various requests with an "appropriate nominated employee", defined in clause 2(1). In summary, an appropriate nominated employee is an employee who has been nominated for that type of request.

Clause 9 allows the CEO to direct which employee responds to a request.

WALGA Comment

The minimum numbers of nominated employees specified in clause 8 will only apply while the default communications agreement applies to a Local Government. However, these requirements

must still be fit for purpose when applying to all Local Governments at least every two years, or at any time an agreement has not been reached.

It is unlikely that all Local Governments of a particular class will have the same requirements or capacity.

CEOs are likely to be best placed to establish a sufficient number of nominated employees to service the level of requests in appropriate timeframes. This could include an administrative system of internal referrals, which could allow requests to be made to any nominated employee, rather than only an "appropriate nominated employee".

The requirement to make the request to an appropriate nominated employee may be challenging if a request for information addresses multiple subjects. It may be more efficient for responses to be coordinated by a single nominated employee.

Similarly, it may be sufficient to state that a CEO can nominate an employee generally or for the purposes of specified types of requests and that Council and Committee Members are provided with an up-to-date list.

Questions

22. Should the default communications agreement allow the CEO to nominate employees generally or for the purposes of any specified requests?
23. Should the minimum number of nominated employees be deleted or are they suitable?
24. Is it necessary to specify that requests must be made to an appropriate nominated employee, or could a nominated employee who receives a request refer and coordinate internally, subject to direction from the CEO?

Local Government Response:
The provision to nominate employees and the purpose of nomination should be at the discretion of the CEO and agreed to by Council. Every organisation is different and staff may have different capabilities, requiring a minimum number of staff members to be nominated diminishes the authority of the CEO to manage the operations, as is their duty. Suggest the minimum number in the draft are a recommendation not a requirement.

2.3.3. Clause 12 Information that may be requested

Draft Order

Clause 12(1) lists matters that may be the subject of requests for information, clause 12(2) provides examples of information that may be requested by a Mayor or President, while clause 12(3) specifies that the clause does not limit what information may be requested.

WALGA Comment

It appears that this clause simply provides indicative examples of suitable subject matter for requests for information. As discussed above, the right of access to information under section 5.92 requires a link to a statutory function. It is possible that the examples provided in clause 12 could be

the subject of a request for information that is relevant to a statutory function as well as a request that is not relevant or is excluded under s.5.92(4). Clause 12(3) confirms that the clause does not limit requests for information. Presumably it also does not expand what may be subject to a request for information, so it is unclear whether it is useful.

Questions

25. Is it useful for the default communications agreement to list matters that may be the subject of requests for information? Do Local Governments have any suggestions for inclusion?
26. Do Local Governments have any comments on the matters listed in clause 12?
27. Do Local Governments have examples of how the matters listed in clause 12 are or are not relevant to Council Member and Committee Member functions under the Act or other written law?

Local Government Response:
Do not object to clause 12

2.3.4. Clause 13 Requirements applicable to requests for information

Draft Order

Clause 13 sets out the requirements applicable to a request for information, including relevance to a statutory function (as discussed above), limited in scope and accompanied by supporting information or correspondence.

WALGA Comment

In many circumstances, the nature of information requested by Council or Committee Members is self-evidently related to performance of a function under the Act or other written law, consistent with s.5.92(1). However, some requests for information are not self-evident as being consistent with s.5.92.

Questions

28. Do Local Governments have any comments on these requirements?
29. Should clause 13 include a requirement for a request for information to explain the relevance of the request to the performance of a function under the Act or any written law?

Local Government Response:
Yes therre should be a requirment to explain the relevance of the request.

2.3.5. Clause 14 Certain information not required to be provided

Draft Order

Clause 14 provides that information is not required to be provided in response to a request for information if:

- the request is not made in accordance with the agreement,
- the information is mentioned in section 5.92(4) of the Act,
- the information is not held by the Local Government, is held by another person or body and cannot be reasonably obtained by the Local Government,
- the CEO decides that preparing or providing the information would divert a substantial and unreasonable portion of the Local Government's resources.

WALGA Comment

The exclusion of information referred to in section 5.92(4) (see cl.14(b)) is discussed above.

Clause 14(c) appears somewhat convoluted. It is not clear if this is intended to require Local Governments to undertake research to identify and obtain information that they do not currently hold. Further, if the information is not held by the Local Government and cannot be reasonably obtained, it is not clear why it is relevant whether the information is held by another person or body.

Questions

30. Should clause 14(c) be simplified to state that information is not required to be provided if it is not held by the Local Government?

Local Government Response:
It is the role of the local government employees to research information that specifically relates to Shire operations and strategic directions and whilst the wording in the draft order may seem ambiguous, a blanket statement excluding information not held by the local government would seem too restrictive.

2.3.6. Clause 15 Disputes

Draft Order

Clause 15 sets out the process for dealing with disputes regarding a final response to a request for information that includes a refusal to provide some or all of the information requested. In the first instance the dispute must be discussed between the Mayor or President, the CEO and the requesting member. If this does not resolve the dispute, the requesting member may refer the dispute to Council for determination. Council's determination is final, and may override a decision by the CEO that the request would divert unreasonable resources.

WALGA Comment

The Draft Order does not appear to contemplate disputes where the Mayor or President is the requesting member.

The Draft Order specifies that Council may override a decision of the CEO under clause 14(d) that a request would divert unreasonable resources. In considering such a dispute, Council should have the

benefit of the CEO's advice regarding the impact on the Local Government's functions and budget. As only clause 14(d) is referenced in this way, it may be that Council does not have the capacity to overturn a refusal on the grounds set out in clause 14(a) – (c).

Questions

31. Should the default communications agreement specify that if the Mayor or President is the requesting member, the deputy Mayor or President should attend the meeting with the CEO in the event of a dispute?
32. Would it be beneficial to have disputes determined by the Inspector rather than Council?
33. Is it appropriate that Council can overturn the CEO decision under clause 14(d)?
34. Are there any other comments on disputes?

Local Government Response:
Yes the Deputy President should meet If the CEO Is In dispute with the President. Yes It would be beneficial to have dispute determined by an Inspector rather than the Council, If It can happen In a timely fashion. It could cause conflict If the Council Is overturning an administrative decsion of the CEO.

2.3.7. Clause 16 Mayor/President discuss media enquiry

Draft Order

Clause 16 allows the Mayor or President to discuss a media enquiry with the CEO or an appropriate nominated employee without making a request for information.

WALGA Comment

In many cases, media enquiries are directed to the Administration, and the Administration then contacts the Mayor or President to coordinate a response. Media enquiries that are not provided to the Local Government could be directed to the Mayor or President, but could also be directed to individual Council Members. It is not clear that this clause is necessary to enable these enquiries to be discussed as needed.

Questions

35. Does this clause meet the needs of Local Governments in managing media enquiries?

Local Government Response:
Yes.

2.3.8. Division 4 Requests for information - processes

Draft Order

Division 4 of the Draft Order sets out the processes for making, acknowledging, discussing and responding to requests for information other than administrative requests.

Clause 18 requires that a request for information must be made to the CEO or an appropriate nominated employee in writing, by email or other electronic means approved by the CEO. Clause 19 requires the CEO to acknowledge the request within 2 working days after the day it is made.

Clause 20 allows the CEO or an appropriate nominated employee to discuss the request with the requesting member, who may request an amendment to the scope of the request in these discussions.

Clause 21 provides the requirements for responding to a request for information. As a starting point, the CEO must ensure the requesting member is given a final response as soon as practicable. Where a request relates to an agenda item, the CEO must use best endeavours to provide a final response before the meeting. In any case, the CEO must ensure that the requesting member is given a final response within 10 working days after the request is made, or notice that the final response cannot be given within that period and estimating when it will be provided. The final response must be in writing. The final response must include reasons for any refusal to provide any of the information requested.

Under clause 22(1), final responses will generally be provided to all Council Members and members of the relevant committee. Clause 22(2) provides exceptions, including where the request for information is one made by the Mayor or President in relation to representing the Local Government, correspondence or arranging a formal meeting or event. Clause 22(2) also allows the CEO and requesting member to agree that the final response is confidential or because of particular circumstances it is appropriate not to provide to all members.

Clause 23 allows the requesting member to discuss the final response with the CEO or an appropriate nominated employee, and may be provided with additional information in these discussions. Clause 24 allows the CEO to arrange a briefing, meeting or discussion with some or all Council or Committee Members in relation to a final response to a request for information.

WALGA Comment

The definition and scope of requests for information are discussed in part 2.1.4 of this discussion paper.

WALGA seeks sector feedback on whether the detailed processes and requirements in Division 4 are suitable for all Local Governments. It is not clear whether it is necessary for a communications agreement to specify that a Council or Committee Member may discuss a request or response with the CEO or appropriate nominated employee, or that the CEO may organise a briefing. In contrast, it may be helpful for a communications agreement to state what will occur if the CEO and requesting member do not agree on whether a response should be provided to all members.

Questions

36. Are there any comments on the processes and requirements in Division 4, including:
    - (i) Is it suitable that all requests for information must be made in writing by email or other electronic means approved by the CEO?
    - (ii) Is 2 working days an appropriate period for acknowledgement of a request?
    - (iii) Does clause 20 provide an appropriate method for discussing and clarifying requests for information?

(iv) Are the timeframes for response specified in clause 21 a reasonable baseline for all Local Governments?

(v) Does clause 22(2) provide a suitable method for deciding when a response does not need to be provided to all Council or Committee Members?

(vi) Should clause 22(2) state what would occur if the CEO and requesting member do not agree on whether a response is confidential or not to be provided to other members?

(vii) Is clause 23 unnecessary or does it provide a useful approach to discussions of a response?

(viii) Is clause 24 unnecessary or does it provide a useful approach to informing Council Members and Committee Members?

Local Government Response:
All requests should be in writing. Generally, 2 days to acknowledge and 10 days to provide a final response is appropriate, however suggest there be a provision for extenuating circumstances, for example what if a request is made during a major incident and the timing is not practicable due to those circumstances. No objections to 21, 22(2), and whilst unnecessary no objections to 23 or 24.

2.3.9. Division 5 Administrative requests - processes

Draft Order

Division 5 of the Draft Order sets out the requirements for making and responding to administrative requests.

WALGA Comment

The definition of "administrative matter" is discussed above.

WALGA seeks sector feedback on whether the processes and requirements are suitable for all Local Governments.

Questions

37. Is it suitable that administrative requests may be made verbally or in writing?
38. Does clause 28 provide reasonable requirements for a response?

Local Government Response:
No objection to verbal and in writing requests with ability for CEO to seek a verbal request be placed in writing. Timeframes are generally appropriate, however should there be a provision for extenuating circumstances, for example what if a request is made during a major incident and the timing is not practicable due to those circumstances.