

COUNCIL POLICY



TITLE:	PUBLIC TRANSPARENCY
ID NUMBER:	CPO-CORP-GE-014 (DocSetID: 2714387)
DEPARTMENT:	Corporate Services
UNIT:	Corporate Services
RESPONSIBLE OFFICER:	Director Corporate Services

ADOPTED DATE AND BY WHOM:	25 August 2020 by Council
EXPIRY DATE:	25 August 2024
REVIEW DATE:	25 June 2024 <i>This policy will be reviewed every four years or as required by any legislative or council changes.</i>

AVAILABILITY:	Organisation wide Yes <input checked="" type="checkbox"/>
	Public Yes <input checked="" type="checkbox"/>
	Internet Yes <input checked="" type="checkbox"/>
ADVISE AVAILABILITY:	Media Release

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1. References

Local Government Act 2020

<https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020/003>

Local Government Act 1989

<https://www.legislation.vic.gov.au/in-force/acts/local-government-act-1989/155>

Freedom of Information Act 1982 - <https://www.legislation.vic.gov.au/in-force/acts/freedom-information-act-1982/107>

Privacy and Data Protection Act 2014- <https://www.legislation.vic.gov.au/in-force/acts/privacy-and-data-protection-act-2014/025>

Equal Opportunity Act 2010

<https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010/020>

Charter of Human Rights and Responsibilities Act 2006 -

<https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/014>

GSC Freedom of Information Statement - (DocSetID: 1515679)

Governance Rules (DocSetID: 726760)

Council Expense Policy (DocSetID: 2714386)

Audit and Risk Committee Charter (DocSetID: 2714384)

Public Transparency Principles *Local Governance Act 2020* (DocSetID: 2694830)

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001 (DocSetID: 1933907)

2. Purpose

This policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct and how council information is made publicly available.

Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act).

A public transparency policy must:

- (a) Give effect to the public transparency principles;
- (b) Describe the ways in which Council information is to be made publicly available;
- (c) Subject to section 58(b), specify which Council information must be publicly available, including all policies, plans and other reports required under this Act or any other Act; and
- (d) Include any other matters prescribed by the regulations.

3. Public Transparency Principles

This policy gives effect to the Public Transparency Principles in section 58 of the Act.

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
- (b) Council information must be publicly available unless:
 - (i) The information is confidential by virtue of the Act or any other Act; or
 - (ii) Public availability of the information would be contrary to the public interest;
- (c) Council information must be understandable and accessible to members of the municipal community;
- (d) Public awareness of the availability of Council information must be facilitated.

4. Scope

This policy applies to Councillors and Council staff.

5. Council Policy

Decision Making at Council Meetings:

- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly, and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

Freedom of Information

A list of available information is provided in the Glenelg Shire Council Freedom of Information Statement published in accordance with the *Freedom of Information Act 1982*. Part II of the *Freedom of Information Act 1982* requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information that it holds.

This information includes but is not limited to:

Documents such as:

- Plans and Reports adopted by Council;
- Policies;
- Project and service plans;
- Grant application, tenders and tender evaluation material;
- Service agreements, contracts, leases and licences;
- Council leases, permits and notices of building and occupancy;
- Relevant technical reports and / or research that informs decision making;
- Records associated with capital works, engineering and the road network;
- Records of work associated with public events and cultural programs;
- Records of maintenance of parks, gardens, public facilities, street features and amenities;
- Records of administration and enforcement of local laws and acts; and
- Records of land transfers, subdivisions and the history of use of land, roads and lanes.

Process Information such as:

- Practice notes and operating procedures;
- Application processes for approvals, permits, grants, access to Council services;
- Decision making processes;
- Guidelines and manuals;
- Community engagement processes;
- Complaints handling processes.

Council records will, at a minimum, be available on Council's website:

- Council meeting agendas;
- Reporting to Council;
- Minutes of Council meetings;
- Reporting from Advisory Committees to Council;
- Audit and Risk Committee Performance Reporting;
- Terms of Reference or Charters for Advisory Committees;
- Register of gifts, benefits and hospitality offered to Councillors or Council staff;
- Registers of travel undertaken by Councillors or Council staff;
- Registers of Conflict of Interest disclosed by Councillors or Council staff;
- Submissions made by Council;
- Register of donations and grants made by Council;
- Registers of leases entered into by Council, as lessor and lessee;
- Register of Delegations;
- Register of Authorised officers;
- Register of Election campaign donations.
- Summary of Personal Interests;
- Any other registers or records required by legislation or determined to be in the public interest.

Consistent with the Part II statement, Council will make available the following records for inspection. Examples include but are not limited to:

- Summary of Personal Interests (register of interests until 24 October 2020); and
- Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council.

Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. You can download them from the website or call Council for a copy. Some of these publications are available at Council Libraries.

Access to Information

- Information will be made available on the Council website, open data, at Council offices, or by request.
- Members of the public can make different kinds of information requests to the Council (e.g. informal requests for documents and information or formal FOI requests).
- Consideration will be given to accessibility and cultural requirements.
- Council will respond to request for information in alignment with the Act including the Public Transparency Principles, and this policy.
- In accordance with the Part II statement made under the *Freedom of Information Act 1982*.

Freedom of Information (FOI) applications

The *Freedom of Information Act 1982* gives you the right of access to documents that Council hold. If you can't find the document you require, call us before you make an FOI application as we may be able to make it available.

Information Not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or its release would be contrary to the public interest or not in compliance with the *Privacy and Data Protection Act 2014*.

“Confidential Information” is defined in section 3 of the *Local Government Act 2020*. It includes types of information listed below:

- Council business information – information that would prejudice the Council's position in commercial negotiations if prematurely released.
- Security information – information that is likely to endanger the security of Council property or the safety of any person if released.
- Land use planning information – information that is likely to encourage speculation in land values if prematurely released.
- Law enforcement – information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
- Legal privileged information – information to which the legal professional privilege or client legal privilege applies.
- Personal information – information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
- Private commercial information – information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.
- Confidential meeting information – Records of a Council and delegated committee meetings that are closed to the public to consider confidential information.

- Internal arbitration information – Confidential information relating to internal arbitration about an alleged breach of the councillor code of conduct.
- Councillor Conduct Panel confidential information – Confidential information relating to a Councillor Conduct Panel matter.
- Confidential information under the 1989 Act – Information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.

The Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law, in breach of contractual requirements or if releasing the information is likely to cause harm to any person or it's not in the public interest to do so.

Public Interest Test

Council is not required to make publicly available information if the release would be contrary to public interest, in accordance with the *Local Government Act 2020*.

When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. Council may refuse to release information if it is satisfied that the likely harm to the community will exceed the public benefit in it being released.

When considering possible harm for the releasing of information, the Council will only concern itself with harm to the community or members of the public. Potential harm to the Council will only be a factor if it also damages the community (e.g. where it involves a loss of public funds or prevents the Council from performing its function).

Information that might be withheld because it is contrary to public interest may include:

- Internal working documents that have not been approved or submitted to Council, especially if release may mislead the public;
- Direction to Council staff regarding negotiations in contractual or civil liability matters;
- Correspondence with members of the public, where release may inappropriately expose a person's private dwelling.

6. Non-compliance with this Policy

If a member of the community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If still not satisfied or wishes to contest the decision, the matter can be reported to the Director Corporate Services who oversees FOI matters.

If not satisfied with Council's response, the concern can be raised directly with the Victorian Ombudsman's Office via the website – www.obudsman.vic.gov.au

7. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

8. Victorian State Legislation Copyright Acknowledgement

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