

Public Transparency



Council Policy Number	179
Date adopted	18 August 2020
Scheduled for review	August 2024

1. Preamble

To give effect to the Public Transparency Principles of section 58 of the *Local Government Act 2020*.

2. Purpose

This policy supports Campaspe Shire Council ('Council') in its ongoing drive for good governance, reinforces the importance of open and accountable conduct and describes how Council information will be made publicly available.

3. Definitions

For the purposes of this policy, Council adopts the following definitions:

Community	as defined in <i>Policy 059 – Community Engagement</i> , community means all the people who live, work, study, own property, conduct private or government business, visit or use the services, facilities and public spaces and places of the municipality. The community may be referred to as stakeholders or comprise of stakeholders
Confidential Information	has the meaning as in section 3 of the <i>Local Government Act 2020</i> (a summary is attached to this policy).
Public Interest	means the test set out under section 36(2) of the <i>Freedom of Information Act 1982</i> , which states documents are exempt from disclosure if the disclosure would be reasonably likely to have a substantial adverse effect on the economy of the municipal district, or it would disclose instructions issued to, or provided for the use of guidance of, officers of a council on the procedures to be followed or the criteria to be applied in negotiation, including financial, commercial and labour negotiation, in the execution of contracts, in the defence, prosecution and settlement of cases, and in similar activities relating to the financial property or personnel management and assessment interests of the council
Stakeholder	means a person, group or organisation that may be affected by, have a specific interest in, or influence over, a Council decision or issue under consideration.
The Act	means the <i>Local Government Act 2020</i> .
Transparency	means the undertaking of business in an open way without secrets, and the making available of all information needed in order to collaborate, cooperate and make decisions effectively.

4. Policy Statement

4.1. Objectives

To give effect to the *Public Transparency Principles* outlined in section 58 of the *Local Government Act 2020*, and formalise transparency in decision-making processes and support public awareness of the availability of Council information by:

- (a) promoting greater clarity in Council's decision-making processes;
- (b) increasing confidence and trust in the community through greater understanding and awareness;
- (c) providing information that is current, easily accessible and disseminated in a timely manner; and

(d) reassuring the community that Council is spending public monies appropriately.

4.2. Scope

This policy applies to Councillors and Council staff.

4.3. Access to Information

Council will facilitate access to information, including by providing access to documents and/or responding to requests for information, in line with its obligations under relevant legislation and this policy.

The following information must be made publicly available:

- (a) Council meeting agendas and minutes;
- (b) Delegated Committee meeting agendas and minutes;
- (c) terms of reference or charters for Delegated Committees;
- (d) Audit and Risk Committee Performance Reporting;
- (e) summary of personal interests under section 135(1) of the Act;
- (f) registers of gifts, benefits and hospitality offered to Councillors or Council staff (with names removed);
- (g) registers of interstate travel undertaken by Councillors or Council staff;
- (h) registers of donations and grants made by Council;
- (i) registers of leases entered into by Council;
- (j) register of delegations;
- (k) register of authorised officers; and
- (l) register of election campaign donations.

The following sets out some of the avenues for accessing other information held by Council:

- (a) Council publishes a Part II statement under the *Freedom of Information Act 1982 (Vic)*, which provides information about documents held by Council and Council's public libraries. It also contains details of communication channels and platforms where members of the community can learn more about Council's functions and participate in Council's decision-making.
- (b) Members of the community can make enquiries to Council, and Council will provide information to respond to those enquiries in line with this policy.
- (c) Members of the community can also request documents held by Council in accordance with the *Freedom of Information Act 1982 (Vic)*.

Council may facilitate access to information in different ways, including in hard copy, soft copy, by inspection, on its website, or at its offices.

Council will consider accessibility and cultural requirements when providing information.

4.4. Information Not Available

Council information will not be publicly available if:

- (a) the information is Confidential Information;
- (b) releasing the information would be contrary to the public interest; or
- (c) releasing the information would be inconsistent with the *Privacy and Data Protection Act 2014 (Vic)*, *Health Records Act 2001 (Vic)* or *Freedom of Information Act 1982*.

4.5. Public Interest Test

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

release of information would be contrary to the public interest, the assessment will have regard to the following:

- (a) would be contrary to the public interest to release information if the harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.
- (b) the possible harm from releasing information, Council should only concern itself with harm to one or more individuals or the public. Potential harm to Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents Council from performing its functions.
- (c) considerations relating to the public interest set out under the *Freedom of Information Act 1982 (Vic)*.

5. Exclusions

Nil

6. Human Rights

This policy has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

7. Related Legislation

Charter of Human Rights and Responsibilities Act 2006

Freedom of Information Act 1982

Health Records Act 2001 (Vic)

Local Government Act 2020

Privacy and Data Protection Act 2014

Equal Opportunity Act 2010

8. Related Policies, Procedures and Strategies

- Council Policy 059 - Community Engagement
- Campaspe Shire Council Governance Rules 2020
- Statement of information under Part II of the *Freedom of Information Act 1982 (Vic)*

9. Attachments

Summary of section 3 of the *Local Government Act 2020* - types of confidential information

Review Period

Four years

Responsible officer

Manager Governance and Strategy

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter the policy, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

Approval History

Adopted 18 August 2020
Revised 22 February 2021

Minute Book Reference No 3222 (Item 9.3)
Administrative update to apply consistent reference to Campaspe Shire Council ('Council')

Chief Executive Officer: 

Date: 24/2/2021

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ATTACHMENT – SUMMARY OF TYPES OF CONFIDENTIAL INFORMATION

Type	Description
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	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 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 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 <i>Local Government Act 1989</i>