

Public Transparency Policy

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1 Document Information

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RESPONSIBLE GENERAL MANAGER	General Manager Corporate Services
RESPONSIBLE MANAGER (Policy Owner)	Manager Governance
ADOPTED BY	Council
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2 Purpose

Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act). This policy gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

3 Scope

This policy applies to Councillors and Council staff of Council.

4 Policy Details

This Public Transparency Policy covers what Council information must be available to the community, and how information will be made publicly available. As a result, this policy promotes:

- a) Greater understanding of Council's decision-making processes to the community;
- b) Increased confidence and trust in Council by the community;
- c) Improved accessibility for the community to Council information;
- d) Public awareness of the availability of Council information; and
- e) Reassurance to the community that Council is spending public monies wisely.

This policy covers both documentary information and process information, and how information will be made available to the public. This policy also recognises the transparency objectives from Kingston's *Good Governance Framework* that must be employed across the organisation.

4.1 Public Transparency Principles

This Public Transparency Policy is made in compliance with the *Public Transparency Principles*, outlined 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 this 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.

4.2 Good Governance Framework

Council's *Good Governance Framework* supports Council in good decision making, compliance, responsible use of resources, achievement of goals and objectives and improved community trust. The Transparency - 'Show it' cornerstone includes Council's commitment to upholding the public's right to know and upholds an *'if not, why not'* principle to transparency. The following are the Transparency cornerstone objectives:

- *'We achieve accountability with our community by being transparent, responsive and open'*
- *'We are proactive in communicating our processes and actions'*
- *We uphold the public's right to know'*

This openness translates to being proactive or making available information that shows how we work, decision making processes and decision-making outcomes.

4.3 What Council will be transparent with

4.3.1 Council Decision Making

- 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.

4.3.2 Council Information

This information includes but is not limited to:

Documents such as:

- Plans and Reports (and supporting documents) adopted by Council;
- Council adopted policies;
- Project and service plans;
- Grant application forms and tenders;
- Service agreements, and licences;
- Council leases, permits and notices relating to building and occupancy; and
- Technical reports.

Process information such as:

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

* operating procedures will not be released if subject to copyright.

Council records will be available on Council's website:

- Council meeting agendas;
- Reports to Council;
- Minutes of Council meetings;
- Reporting from Advisory Committees to Council through reporting to Council;
- Audit and Risk Committee Performance Reporting;
- Terms of reference or Charters for Advisory Committees;

- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of travel undertaken by Councillors or Council Staff;
- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
- Submissions made by Council;
- Registers 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 (subject to privacy considerations);
- Register of Election campaign donations;
- Summary of Personal Interests;
- Any other Registers or Records required by legislation or which Council determines should be made available in the public interest.

4.3.3 Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors. You can download them from the website or call Council for a copy.

4.4 Access to information

- Information will be made available on Council's website, via inspection at Council offices, or copies by request depending on the nature of the information and any relevant legislation. Information made available on Council's website can be found here: <https://www.kingston.vic.gov.au/About-Us/Plans-Policies-and-News/Policies>
- Members of the public can make different kinds of information requests to Council (e.g. informal requests for documents and information or formal FOI requests).
- Consideration will be given to confidentiality in accordance with the Act and the public interest where appropriate.
- Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.
- Council will respond to requests for information in alignment with the Act, including the Public Transparency Principles, and this policy.

4.4.1 Freedom of Information

The *Freedom of Information Act 1982* gives you right of access to documents that Council hold. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Under the Freedom of Information Act, requests may be refused if the request would substantially and unreasonably divert the resources of the agency from its other operations. Read more at www.ovic.vic.gov.au.

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.

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information it holds. If you can't find the information you require, call us directly so we may assist you.

4.5 Information not available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or if its release would be contrary to the public interest.

"Confidential information" is defined in section 3 of the *Act*. It includes the types of information listed in the following table.

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>

Council may decide by resolution, 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 would be contrary to law (e.g. it would breach *the Privacy and Data Protection Act 2014*) or be contrary to the public interest because, for example, release would unduly impact on the allocation of Council resources, be in breach of contractual obligations or be likely to cause harm or disadvantage to a person or body.

Where information is not confidential, and not already available, Council will apply a public interest test to determine whether release should occur. Some examples of where release would be contrary to the public interest are given above. It should, however, be noted that the concept of public interest is a broad one.

4.6 Responsibilities

It is everyone's role to promote and facilitate access to council information in accordance with the public transparency policy.

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Corporate Leadership Group	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Senior Leadership Group	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
All Staff	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.	Ongoing
Manager Governance	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

5 Privacy

This policy recognises the *Information Privacy Principles (IPPs)* and *Health Privacy Principles (HPPs)* set out in the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)* in relation to the management and handling of personal and health information within the public sector. This policy is in accordance with Kingston's *Information Privacy Policy*. For more information, refer to Council's *Information Privacy Policy* which can be found here:

<https://www.kingston.vic.gov.au/Contact-Us/Privacy>

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 Council's Customer Advocate. If still not satisfied and would like to contest the decision, this can be reported to the Chief Executive Officer.

If not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office.

7 Monitoring, evaluation and review

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the policy's implementation.

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

8 Delegation Authority and Decision Guidelines

Decisions on the release of documents will be conducted in accordance with legislative requirements and Council's instruments of delegation.

9 Human Rights Charter

This policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as this policy aligns with and the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.

10 Related Documents and Resources

Legislation / External Documents

- Equal Opportunity Act 2010
- Health Records Act 2001 (Vic)
- Local Government Act 2020 (Vic)
- Freedom of Information Act 1982 (Vic)
- Privacy Act 1988
- Privacy Data and Protection Act 2014 (Vic)

City of Kingston Documents

- Community Engagement Policy
- Good Governance Framework
- Governance Rules
- Information Privacy Policy
- Information Services Records and Information Management Policy
- Recording of Council Meetings Policy

Resources / External Documents

- City of Casey Municipal Monitor Report February 2020
- Office of the Victorian Information Commissioner 'Proactive and Informal Release of Information in the Victorian Public Sector' discussion page
- Victorian Ombudsman Investigation into the Transparency of Local Government Decision Making 2016

11 Definitions

the Act	means the Local Government Act 2020.
community	means everyone affiliated with the municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views.
confidential information	means information which is confidential under the definition in the <i>Act</i> or any other Act.
consultation	means a lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively.
Council	means Kingston City Council.
Good Governance Framework	articulates what makes up good governance at Kingston City Council and describes how it is achieved.