

POLICY LOCATION	Corporate Services	POLICY TITLE	Public Transparency Policy
POLICY NUMBER	CA32	DATE ADOPTED	August 2020
REVISION NUMBER	1	REVISION DATE	August 2023

Purpose

The purpose of this policy is to assist Buloke Shire Council (Council) to promote good governance, open and accountable conduct and to describe the ways in which Council information will be made publicly available. This policy gives effect to the public transparency principles outlined in Section 58 of the *Local Government Act 2020* (the Act).

This document represents the current policy of the Council until it is revised or rescinded.

Scope

This policy is made under Section 57 of the Act. This section of the Act requires the Council to adopt and maintain a public transparency policy.

The public transparency policy applies to all Workers.

Definitions

In this policy –

“Council” refers to the Buloke Shire Council.

“Confidential Information” means confidential information as defined in Section 3 of the Act

“Public Interest Test” means the Council may refuse to release information if it determines that the harm likely to be created by releasing the information will exceed the public benefit in being transparent. When considering possible harm from releasing information, Council will only concern itself with harm to the community or members of the community. Potential harm to the 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 the Council from performing its functions.

“Workers” means a Council employee, Councillor or Chief Executive Officer, and members of the Council’s Delegated Committees and the Audit and Risk Committee.

Policy Statement

The Council recognises the importance of transparency in its decision making processes and public awareness of the availability of Council information. As a result, this policy is designed to promote:

- (a) Greater clarity in the Council’s decision-making processes

- (b) Increased confidence and trust in the community through greater understanding and awareness
- (c) Enhanced decision making by the community
- (d) Access to information that is current, easily accessible and disseminated in a timely manner
- (e) Reassurance to the community that the Council is spending public monies wisely

The policy seeks to cover both documentary information, process information and how information will be made available to the public and is an integral part of the Council's good governance framework.

Public Transparency Principles

The Council is committed to the principles of public transparency set out in Section 58 of the Act as follows:

- (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.*

Council Meetings

Decision making at Council Meetings shall be:

- (a) Undertaken in accordance with the Act and the Governance Rules
- (b) Conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules
- (c) Informed through community engagement, in accordance with the Community Engagement Principles and the Council's Community Engagement Policy
- (d) Made fairly and on the merits

Documents Held by Council and Access to Information

Information that will be made available to the public by the Council includes:

- Annual Report
- Council Budget
- Councillor Code of Conduct
- Council Plan
- Council adopted policies
- Council meeting agendas and minutes of Council meetings
- Delegated Committee meeting minutes
- Local Laws and Governance Rules

- Terms of reference or charters for Advisory Committees
- Audit and Risk Committee Performance Reporting
- Summary of Personal Interests in accord with Section 135 of the Act
- Registers of donations and grants made by the Council during a financial year
- Register of Election campaign donations in accord with the Act
- Registers of leases entered into by the Council where the Council is the lessor (and owner)
- Register of Delegations made by the Council
- Register of Authorised Officers
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff (with staff names removed) of interstate travel undertaken by Councillors or Council Staff (with staff names removed)
- Strategic Resources Plan
- Any other Registers or Records required by legislation

A list of available information is also provided in the Part II Statement (Statement) published on the Council's website in accordance the *Freedom of Information Act 1982*. This Statement is designed to assist members of the public in accessing the information it holds.

The Council will facilitate access to information and will respond to requests for information in line with its legislative obligations (including the public transparency principles) and Council policy. Information may be made available on the Council's website, at the Council offices, by inspection or by request. Consideration will be given to accessibility and cultural requirements when facilitating access to Council information in accord with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

Council information may not be made publicly where:

- The information is Confidential Information by virtue of the Act or any other legislation (examples include but are not limited to the *Privacy and Data Protection Act 2014 (Vic)* or the *Health Records Act 2001 (Vic)*; or
- The release of information would be contrary to the public interest.

Examples of Confidential Information include:

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.

TYPE	DESCRIPTION
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>

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 or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

Where information is not confidential, and not already available, the Council will apply the principles of a public interest test with consideration also of the resources required to respond to the request.

Responsibilities

Councillors	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Senior Leadership Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Director Corporate Services	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Managers/Team Leaders/Coordinators	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.
All Staff	Public transparency is the responsibility of all staff 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 this policy.
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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 and would like to contest the decision, this can be reported to Buloke Shire Council's Director Corporate Services in accord with Council's Complaints Handling Policy by telephoning 1300 520 520 or emailing buloke@buloke.vic.gov.au.

If not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website – www.ombudsman.vic.gov.au

Other Ways to Access Information

The *Freedom of Information Act 1982* provides a right of access to documents that Council holds. 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. Read more at www.ovic.vic.gov.au.

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.

References

This policy was developed in accordance with the following legislation:

- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Equal Opportunity Act 2010 (Vic)*
- *Freedom of Information Act 1982 (Vic)*
- *Local Government Act 2020 (Vic)*
- *Local Government Act 1989 (Vic)*
- *Privacy and Data Protection Act 2014 (Vic)*

This policy was developed in accordance with the following documents:

- Complaints Handling policy
- Customer Service Charter
- Freedom of Information Part II Statement
- Governance Rules



- Information Privacy policy
- Records Management policy