



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY	
PUBLIC TRANSPARENCY POLICY	Policy No:
	Adopted by Council: 15 February 2023
	Next review date: February 2027
Responsible Executive:	Director, Corporate Community Services
Responsible Officer:	Governance Manager
Functional Area:	Governance
Introduction & Background	<p>Council must adopt and maintain a Public Transparency Policy under section 57 of the <i>Local Government Act 2020</i> (the Act). This policy gives effect to the public transparency principles outlined in section 58 of the Act.</p> <p>Council is committed to the principles of public transparency, good governance, open and accountable conduct and making council information publicly available, except where that information is confidential under the provisions of the Act or contrary to the public's interest.</p>
Purpose & Objectives	<p>This policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct, and how Council information is to be made publicly available. This policy aims to formalise Council's commitment to transparent decision-making processes and freely available public access to Council information.</p> <p>This policy gives effect to the <i>Public Transparency Principles</i> outlined in section 58 of the Act.</p> <p>Public Transparency Principles</p> <p>The Public Transparency Principles are set out in section 58 of the Act as follows:</p> <ol style="list-style-type: none"> 1. Council decision-making processes must be transparent, except when Council is dealing with information that is confidential by virtue of the Act or any other Act. 2. Council Information must be publicly available, unless: <ol style="list-style-type: none"> a. the information is confidential by virtue of the Act or any other Act; or b. public availability of the information would be contrary to the public interest. 3. Council Information must be understandable and accessible to members of the municipal community; 4. Public awareness of the availability of Council Information must be facilitated. Council will give effect to and implement the Public Transparency Principles in accordance with this Policy.



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<p>Response to the Overarching Governance Principles of the Local Government Act 2020</p>	<p>Section 9 of the Local Government Act 2020 states that a Council must in the performance of its role give effect to the overarching governance principles.</p> <p>This policy is in response to the following overarching governance principle/s of the Local Government Act 2020:</p> <p>(a) the community engagement principles (section 56); (b) the public transparency principles (section 58);</p>
<p>Definitions</p>	<p>Act means the <i>Local Government Act 2020</i>.</p> <p>CEO means the Chief Executive Officer includes an Acting Chief Executive Officer.</p> <p>Community means municipal community.</p> <p>Confidential Information means confidential information as defined in section 3(1) of the Act.</p> <p>Council means West Wimmera Shire Council.</p> <p>Council Information means all documents and other information held by Council.</p> <p>Council Offices means the offices of Council</p> <p>Council Website means Council's website at www.westwimmera.vic.gov.au</p> <p>Governance Rules means the governance rules adopted by Council under section 60 of the Act, as amended from time to time.</p> <p>Health Information means health information as defined in section 3(1) of the <i>Health Records Act 2001</i>.</p> <p>Meeting means a meeting of Council or a Delegated Committee.</p> <p>Municipal Community means: a) people who live in the municipal district of the Council; b) people and bodies who are ratepayers of the Council; c) traditional owners of land in the municipal district of the Council; and d) people and bodies who conduct activities in the municipal district of the Council.</p> <p>Officer means a member of Council staff, and includes the Chief Executive Officer.</p> <p>Personal Information means personal information as defined in section 3(1) of the <i>Privacy and Data Protection Act 2014</i>.</p>



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	<p>Public Transparency Principles means the public transparency principles set out in section 58 of the Act</p>
<p>Policy Details</p>	
1.	<p>Scope</p> <p>This Policy applies to Council, Councillors and Council Officers and to all Council Information, except Council Information which is made available, or is otherwise accessible, under another Act (other than an Act which refers to this Policy). Without limiting the generality of the above, this Policy does not apply to Council Information which is:</p> <ul style="list-style-type: none"> • required to be made available under the Planning and Environment Act 1987; • required to be made available under the Building Act 1993; or • otherwise required to be made available on payment of a fee or charge
2.	<p>What will Council be transparent with</p> <p>Council is committed to ensuring that decision making at Council Meetings:</p> <ul style="list-style-type: none"> • 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 merit, 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. <p>Council Information</p> <p>A list of available information is provided in accordance with the <i>Freedom of Information Act 1982</i>. Part II of the <i>Freedom of Information Act 1982</i> 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. This information includes but is not limited to:</p> <ul style="list-style-type: none"> • Council and Delegated Committee meeting agendas and minutes • Audit and Risk Committee Meeting minutes through reporting to Council • Councillor and Employee codes of conduct; • Council policies and organisational policies; • annual reports; • election campaign donation returns; • interstate and international travel details of Councillors;



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	<ul style="list-style-type: none">• summary of personal interest returns;• submissions received under Section 223 of the Local Government Act 1989 (Vic) during the previous 12 months until its repeal;• Councillor and employee register of gifts, benefits and hospitality• donations and grants made by the Council during the financial year;• register of leases entered into by the Council as a lessor (where the Council is the owner);• register of authorised officers appointed by Council;• instruments of delegation;• register of processes and operating procedures where appropriate;• application processes for approvals, permits, grants, access to Council services;• decision making processes;• guidelines and manuals;• road management plans;• register of roads;• any other registers or records required by legislation <p>Consistent with the Part II statement, Council will make available the following records for inspection. Examples include but are not limited to:</p> <ul style="list-style-type: none">○ Summary of Personal Interests and○ Submissions received under section 223 of the <i>Local Government Act 1989</i> until its repeal or received through a community engagement process undertaken by Council. <p>Publications</p> <p>Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. These documents can be downloaded from the website. Some of these publications are available at Council's Libraries.</p>
3.	<p>Access to Information</p> <ul style="list-style-type: none">• 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 (eg: informal requests for documents and information, or formal FOI requests).• Consideration will be given to accessibility and cultural requirements.



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- Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.
 - In accordance with Part II statement made under the *Freedom of Information Act 1982*.
- Freedom of information (FOI) applications**
- The *Freedom of Information Act 1982* gives the public the right of access to documents that Council hold.
- If a document is not available on Council's website, members of the public can make an FOI Application.

4. 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 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 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 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	Information that was confidential information for the purposes of section 125 of the <i>Local Government Act 2020</i> .



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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 is 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 the 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 harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.

When considering possible harm from releasing information, the 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.

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

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage the Council’s capacity to negotiate the best outcome for the community;
- correspondence with members of the community, where release may inappropriately expose a person’s private dealings.

5. 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
Senior Management Team	Monitor implementation of this policy. Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing



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	<p>All Staff</p> <p>Public transparency is the responsibility of all employees as appropriate to their role and function.</p> <p>All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.</p>	Ongoing
	<p>Manager Governance</p> <p>To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.</p>	Ongoing
6.	<p>Human Rights Charter</p> <p>This policy has been reviewed against and complies with section 13 of the <i>Charter of Human Rights and Responsibilities Act 2006</i>, as this Policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with.</p> <p>It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.</p>	
7.	<p>Non-Compliance with this Policy</p> <p>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 they would like to contest the decision, this can be reported to Council's Freedom of Information Officer.</p> <p>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 their website at www.ombudsman.vic.gov.au</p>	
8.	<p>Monitoring, Evaluation and Review</p> <p>Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the Policy's implementation.</p> <p>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.</p>	
9.	<p>Related Policies and Legislation</p> <p>West Wimmera Shire Council's:</p> <ul style="list-style-type: none"> • Governance Rules • Public Transparency Principles • Community Engagement Policy • Information Privacy Policy 	



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	<p><u>Legislation:</u></p> <p>Charter of Human Rights and Responsibilities Act 2006</p> <p>Freedom of Information Act 1982</p> <p>Local Government Act 2020</p> <p>Privacy and Data Protection Act 2014</p> <p>Equal Opportunity Act 2010</p>
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