

<h2>CONFIDENTIAL INFORMATION</h2>	Date Adopted:	12 February 2020
	Adopted By:	Council
	Review Due:	February 2024
	Responsible Officer:	Governance Coordinator
	Directorate:	Organisational Development, Community and Corporate Services
	EDRMS No:	D/19/96619

PURPOSE

The purpose of the policy is to ensure that councillors and staff (including contractors, volunteers and students) are made aware of their obligations and responsibilities concerning access to and disclosure of, confidential information associated with any council business or activities.

This policy provides guidance to councillors and staff in identifying, assessing, managing and reporting on the use and / or misuse of confidential information.

DEFINITIONS

Council	means Southern Grampians Shire Council
The Act	means the Local Government Act 1989
Confidential Information	means any information with restrictions placed on the communication or dissemination of that information. It may include information provided 'in-confidence', whether oral, written, electronic or in any other form, which is used to inform policy positions, is only to be internally distributed and is not to be shared and as set out in the Act and Codes of Conduct.
Information	means, for the purpose of this policy, letters, reports, documents, facsimiles, attachments, tapes, electronic media, pictures, plans and all other forms of information, including verbal.
CEO	means Chief Executive Officer

APPLICATION AND SCOPE

This Policy applies to councillors, staff including contractors, students and volunteers and members of special committees and advisory committees.

GENERAL PROVISIONS

Council operates in an environment which requires compliance with good governance principles, including those of public accountability and transparency. Council seeks to inform the public of issues under consideration and the nature of the decisions made by Council.

However, Council acknowledges there are certain documents and types of information that are confidential and must not be disclosed to third parties.

STATUTORY PROVISIONS

Councillors receive confidential information in accordance with sections 77 and 89 (2) of the Act.

Section 77 directs that a person who is, or has been, a Councillor or member of a special committee, must not disclose information that the person knows, or should reasonably know, is confidential information.

Section 89 of the Act allows Council or a Committee of Council to close to the public its meeting to allow discussion of a range of matters as set out in the section. Documents and information considered during the closed parts of a meeting are confidential information for the purposes of the policy.

CONFIDENTIAL INFORMATION

Section 77(2) of the Act specifies that information is to be considered “confidential” if any of the following circumstances exist:

- (a) the information was provided to the Council or a special committee in relation to a matter considered by the council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
- (b) the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
- (c) the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) of the Act and the Council has not passed a resolution that the information is not confidential.

If the CEO has designated a document as confidential, the document will include the following statement:

“This document has been designated as confidential by the Chief Executive Officer, in accordance with section 77 of the Local Government Act 1989, as it relates to {insert reason} as defined under section 89 of the Local Government Act 1989”

Section 89(2) of the Act specifies that a Council or Special Committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

The following types of information are deemed to be confidential to Council, unless, or until, the Council resolves to the contrary:

- Commercial in confidence information, including where the release of information would affect a company's competitive advantage (including competitive tender situations);
- Information provided from government departments or ministers that have been classified as confidential;
- Information relating to a property disposal or acquisition, where release of the information may prejudice Council;
- Financial and legal analysis, where the disclosure of information may compromise Council.

RESPONSIBILITIES

All Councillors and staff are made aware of their responsibilities when managing confidential information.

Councillors are required to participate in Councillor Induction and sign the Councillor Code of Conduct, which outlines the statutory requirements for Councillors under the Act regarding the handling of confidential information.

Staff undergo induction and are provided a Code of Conduct which details staff's responsibilities when handling confidential information and the expectations.

Responsibilities also include:

- Recognising the requirements of the Privacy and Data Protection Act 2014 regarding access, use and release of personal information; and
- Adhering to Council policies relating to accessing Council information.
- Exercise due care when handling or using information;
- Prevent disclosure of confidential information to any person or organisation, specifically:
 - Avoid discussing confidential Council information with family, friends, businesses etc.; and
 - Ensure documents containing confidential information are safeguarded, including materials stored at private residences.

MANAGING CONFIDENTIAL INFORMATION / DATA SECURITY

Release of any council information should happen in accordance with council policies and procedures and compliance with relevant legislation. Councillors and staff have an obligation to ensure that information is managed appropriately.

- Confidential information should be appropriately watermarked, titled, protected and stored.
- Access to and usage of confidential information is limited and legitimate.
- Information discussed during a closed session of a Council meeting and associated documentation must not be disclosed.

Confidential information will:

- Be marked with a heading and / or watermarked with the appropriate protective markings.

If a Councillor, staff or member of a special committee needs to dispose of confidential information, they must return the information to Southern Grampians Shire Council's Brown Street Office, 111 Brown Street, Hamilton, for secure disposal.

CONFIDENTIAL INFORMATION AT COUNCIL MEETINGS

The following may occur relating to matters addressed at Council or Committee meetings:

- The CEO may make a declaration that information concerning a specific matter is to be treated as confidential and the information will remain confidential unless or until Council resolves to the contrary;
- If a confidential item being considered at a meeting is to be publicly released at a later date, the resolution should be written in such a way to allow this release of information to occur;
- If the Mayor or a Councillor in a meeting asks that a matter be treated as confidential, the Council will formally resolve as to whether all information concerning the matter is confidential;
- If the Council exercises its powers to close a meeting to members of the public, all information in relation to the matters discussed during that closed meeting or the closed portion of the meeting is confidential, unless and until the Council table resolves to the contrary.

COUNCILLOR BRIEFING SESSIONS

- Councillor briefing sessions are confidential.
- Councillor briefing sessions enable staff to present proposals to Councillors in an informal setting.
- Briefing sessions are not bound by the Meeting Procedures Local Law.
- Assist Councillors to make informed decisions if and when the issues are presented to Council for decision.

ACCOUNTABILITY PROCESS

If a Council Officer is found to have discussed or provided a copy of confidential information to an unauthorised person or body, it will be considered a serious breach and subject Council's Performance and Discipline policy.

If a Councillor is found to have discussed or provided a copy of confidential information to an unauthorised person or body, the Councillor(s) will be reported to the Local Government Inspectorate for being in breach of Section 77 of the Act. The Council may also resolve to deal with the matter through the Councillor Code of Conduct or make application to a Councillor Conduct Panel in respect of a Councillor's Conduct.

IMPLEMENTATION

This policy will be published on the Council's website.

CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy is compatible with the relevant human rights identified in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

REVIEW

This Policy must be reviewed a minimum of every four years or in-line with legislative change.

The policy was originally adopted on 8 September 2010 and was reviewed on the following dates:

- 07/2012
- 09/04/2014
- 12/02/2020

END