

# ACCESSING INFORMATION - FREEDOM OF INFORMATION & PRIVACY



COUNCIL POLICY – Accessing Information – Freedom of Information	
Reference Number	688275
Responsible Business Unit	Office of the CEO
Responsible Officer	Chief Executive Officer
Legislation	<p>Aged Care Act 1997 (Cwth)            Copyright Act 1968 (Cwth)            Development Act 1993            Freedom of Information Act 1991            ICAC Act 2012            Local Government Act 1999            Local Nuisance and Litter Control Act 2016            Ombudsman Act 1972            Planning Development &amp; Infrastructure Act 2018            Privacy Act 1988 (Cwth)            Public Interest Disclosure Act 2018            SA Government Information Privacy Principles            Instructure, Premier and Cabinet Circular PCO12            State Records Act 1997</p>
Relevant Delegations	<p>Chief Executive Officer            General Manager Assets &amp; Infrastructure            General Manager Community Development            General Manager Corporate Services            Accredited Freedom Information Officer</p>
Related Policies Management Guidelines Frameworks	<ul style="list-style-type: none"> <li>• Good Public Administration Framework</li> <li>• Risk Management Framework</li> <li>• Behavioural Management Framework / Policies</li> <li>• Code of Practice – Access to Council meetings, Council Committee &amp; Council Documents</li> <li>• Public Information Disclosure Guidelines</li> <li>• Complaint Management Framework</li> <li>• Community Engagement Framework</li> <li>• CCTV Standard Operating Procedures</li> <li>• IT Policy &amp; Guidelines</li> <li>• CHSP – Access to Information through Translation</li> <li>• CHSP – Confidentiality &amp; Privacy</li> <li>• CHSP – Information Provision Policy</li> <li>• Information Sharing Guidelines</li> <li>• Council social media user conditions</li> <li>• Let's Talk – Bang the Table User conditions</li> </ul>
Link to Strategic Plan	Objective 5.3 Responsive
Council resolution	131.4
Date Adopted	8 May 2023
Review Date	At least once a Council term - 2027
Previous Revisions	<p>14 June 2022, item 108.7            11 November 2019, 190.6            Replaces Privacy Policy – 743225 – 14/9/15            10 April 2017, 67.3            12 May 2014, 34.9</p>

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## POLICY STATEMENT

The Rural City of Murray Bridge in providing open, responsive and accountable government is keen to ensure that the information it collects and stores is managed in accordance with its legislative responsibilities.

## OBJECTIVES

This policy outlines the approach taken to maintain information privacy and how requests to access information, that is not readily available, are treated.

## SCOPE

This policy applies to all records held by the Rural City of Murray Bridge in accordance with the *State Records Act 1997*.

## PRINCIPLES

- As part of Council's provision of open, responsive and accountable government, Council is of the opinion that information should be freely available to its stakeholders where legally able to.
- Council will ensure the collection, storage and use of personal information is gathered for Council business purposes only, unless otherwise specified.
- Council's Chief Executive Officer has been delegated responsibility to manage the access of information and maintain a register of documents required by Legislation to be published on Council's internet for public viewing.
- It is recognised that Council is bound by the provisions of the *Copyright Act 1968* which creates property rights, including the right to prevent copying of writing and artistic works. Information frequently received, considered and retained by Councils such as engineering and other expert reports, plans, diagrams, drawings are protected by copyright, such that their reproduction, otherwise that in accordance with the *Copyright Act, 1968*, may give rise to an actionable copyright information.
- Requests for access to information that may be subject to copyright will be considered in accordance to applicable Legislation on a case by case basis by the Accredited Freedom of Information Officer.
- Requests for information under the *Freedom of Information Act 1999*, to access information that is not freely available, will be considered in accordance with the Act and the Principal Officer and Accredited Freedom of Information Officer will have regard to the resources published on the State Records website.
- Requests for correction to personal information held by Council will be considered in accordance with the requirements of the *Freedom of Information Act 1999*, by an Accredited Freedom of Information Officer.
- Personal submissions made to Council, not limited to but including a request for a service; providing feedback; signing a petition; lodging a complaint or other topical information may be published by Council through its public reporting processes, thereby releasing personal information.
- Council will publish an annual Freedom of Information Statement, as part of its Annual Report, on its website in accordance with legislative requirements.

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## INFORMATION PRIVACY

Local Government in South Australia is not directly bound by legislation in relation to Privacy set by either Federal or State Legislation. However Council's interaction with both Federal and State Government in relation to funding and service delivery often requires adherence to specific legislation in relation to information privacy.

Council has established the following guiding principles to assist:

- Reasonable steps are taken to ensure that before personal information is collected or as soon as practicable after it is collected, the person is informed for the purpose for which the information is collected.
- Information is provided on how the information is authorised to be collected or what it is required to be collected.
- Unless publicly available, personal information will be securely stored to protect against loss or misuse.
- Personal information will not be used for any other purpose than it was collected or disclosed to a third party for another purpose unless:
  - Such release is reasonably expected
  - The use and disclosure was consented by the person
  - It is believed that disclosure on reasonable grounds is necessary to prevent or lessen a serious threat to life or health or safety of the person.
  - The release is required by law.
- Participating in information sharing with relevant Government Agencies as identified with the SA Ombudsman Information Sharing Guideline.

## GRIEVANCES

- Any person who has any concerns regarding how Council handles personal information should contact Council's Accredited Freedom of Information or any General Manager in the first instance.
- If the person's concern is unable to be satisfied then the person may lodge a formal complaint with the Chief Executive Officer and/or seek an Internal Review of the decision in accordance with Council's Complaint Handling Framework.

## DEFINITIONS

**Personal Information** as defined in the Freedom of Information Act 1991

personal affairs of a person includes that person's—

- (a) financial affairs;
- (b) criminal records;
- (c) marital or other personal relationships;
- (d) employment records;
- (e) personal qualities or attributes,

but does not include the personal affairs of a body corporate;

### **Public Interest Test / Unreasonable disclosure consideration**

Items considered to be held in confidence will be assessed against the public interest test / unreasonable disclosure consideration and each item will be considered on its merit.

As a general principle the public interest test / unreasonable disclosure consideration will include an assessment as follows:

- concern or benefit to the public, not merely an individual interest.
- seriously impacts on an individual's personal affairs (*financial affairs; criminal records; marital or other personal relationships; employment records; personal qualities or attributes*)
- Interferes with commercial in confidence activities
- disclosure of certain information that would prevent the efficient and effective governance of the Council or Committee

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- prejudice the fair treatment of a public report by early disclosure
- detriment to the public (ie disclosing information would inhibit the flow of information to law enforcement agencies)
- Information is being tested for accuracy