

# PUBLIC TRANSPARENCY POLICY

## 1.0 Purpose

This Public Transparency Policy (the Policy) supports Council in its ongoing drive for good governance and reinforces the importance of open and accountable conduct as well as providing guidance as to how Council information is to be made publicly available. 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.

## 2.0 Scope

This Policy applies to all information and decision-making processes within Council and forms a part of Council's Integrity Framework.

## 3.0 Policy Statement

### 3.1 What is Public Transparency

Transparency and accountability go hand in hand. Openness, accountability, and honesty define local government transparency and Council's obligation to share information with the community. Transparency is central to the ability of the community to hold its elected officials accountable.

Public transparency, in the local government context, requires that the decision-making processes of the Council be conducted openly with information made freely and proactively available to individuals and participation in decision-making is encouraged. There should be minimal exceptions and in accordance with legal requirements. An explanation should always be provided as to why information will not be released or why a decision cannot be made with full transparency.

### 3.2 Principles for Transparency

Council commits to the following principles for Public Transparency as detailed within the *Local Government Act 2020*:

- 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.

### 3.3 What will Council be transparent with?

To enact the principles for transparency, Council will apply them to:

#### 3.3.1 Decision Making at Council Meetings

- Will be undertaken in accordance with the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.

### 3.3.2 Council Information

Council delivers a range of services to residents, business and visitors to the municipality and our services and functions are documented. Council will publish information about Council services and administration activities on Council's website or will make this information available upon request.

Part II of the *Freedom of Information Act 1982* requires Council to publish a number of statements designed to assist individuals in accessing the information it holds. A list of available information is provided in the Part II Statement published in accordance with the *Freedom of Information Act 1982*. This information includes:

#### Documents such as:

- Plans and Reports adopted by Council;
- policies;
- project and service plans;
- grant application, tenders and tender evaluation material;
- service agreements, contracts, leases and licences;
- Council leases, permits and notices of building and occupancy; and
- relevant technical reports and / or research that informs decision making.

#### Procedural information such as:

- Practice notes and operating procedures;
- application processes for approvals, permits, grants, access to Council services;
- decision making processes;
- guidelines and manuals;
- community engagement processes; and
- complaints handling processes.

**Council records** including, but not limited to the details below will be made available where possible on Council's website:

- Council and Delegated Committee meeting agendas and minutes;
- reporting from Committees required to in accordance with the Governance Rules;
- details of Delegated Committees, Community Asset Committees and 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 to State or Federal processes;
- details of any Memorandum of Understanding entered into by Council that are not subject to confidentiality clauses;
- 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;

- register of Election campaign donations;
- summary of Personal Interests; and
- any other Registers or Records required by legislation or determined to be in the public interest.

Council will make available the following records for inspection. Examples include but are not limited to:

- Summary of Personal Interests ('Register of interests' until 24 October 2020); and
- summary of submissions received under Section 223 of the *Local Government Act 1989* until its repeal.

The information made available is subject to the provisions of:

- the *Privacy and Data Protection Act 2014*;
- the *Freedom of Information Act 1982*;
- the *Health Records Act 2001*; and
- Council's Privacy Policy.

## Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Ballarat. These can be downloaded from Council's website or by contacting Council for a copy. Some of these publications are available at Council's Libraries.

### 3.3.3 Council Data

Relevant Council data that has been assessed will be made available on Council's website or via [data.vic.gov.au](http://data.vic.gov.au) with regular reporting of key metrics that share Council's performance on areas of community interest. This includes performance data such as:

- Biennial Local Government Performance Reporting Framework (LGPRF) data, including key service performance metrics.
- Service delivery data such as trees planted, visitations to our leisure centres and libraries and complaints.

This means that if we're able to share data – factoring in commercial copyright, security and privacy concerns – we will.

We do this because we believe in being a transparent organisation that makes it simple for the community to access information. It helps foster citizen collaboration and innovation and makes it easier for innovators to develop solutions and services that are relevant to the community.

## 3.4 When will we be transparent?

Public transparency is a driving principle that will guide the work that we do, the decisions we make and the information we share – in everything that we do. This applies within both the political and administrative context of Council.

There will be circumstances where information cannot be shared, and these are outlined in 3.5.

## 3.5 When will we be limited in our transparency?

Some Council information that informs decision making by Council 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 in compliance with the *Privacy and Data Protection Act 2014*.

## Public Interest Test

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, 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.

## Confidential information

“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 if released is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that if prematurely released is likely to encourage speculation in land values if prematurely released.
Law enforcement information	Information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.
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.
Confidential meeting information	Records of a Council and delegated committee meetings that are closed to the public under section 66(2)(a) of the Act.
Internal arbitration information	Confidential Information relating internal arbitration about an alleged breach of the councillor code of conduct as specified in section 145 of Act.
Councillor Conduct Panel confidential information	Confidential information relating to a Councillor Conduct Panel matter. Information specified in section 169 of the Act.
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, 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 it is not in the public interest to do so.

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

### 3.6 How will we be transparent?

#### Council meetings

Decisions made at Council meetings are generally informed by Council reports that are prepared by officers and included in the agenda. Council meeting agendas are made available to the community in advance of each meeting in accordance with the Governance Rules.

Council meetings will be open to the public to attend or view the live broadcast on Council's website. The only circumstance in which the community will not be able to view a Council meeting will be if it has been closed for consideration of a confidential matter.

#### Council reporting

Council reports that require a decision will address the Overarching Governance Principles as outlined in the Governance Rules and will be published in the Council Agenda unless they contain confidential information or decisions made in closed council.

#### Access to information

- Information will be made available and maintained on the Council website in a timely manner. Documents, Process Information and Records specified in section 3.3.2 will be made available (including by being published on website as appropriate) within 14 days of being finalised.
- Requests for information will be responded to in alignment with this policy and the public transparency principles.
- Council may facilitate access to information in a variety of ways; and may include providing a hard copy, soft copy, arranging inspection or viewing at Council offices, or publishing on Council's website. An applicant may otherwise be advised that access to a document can be obtained via another method such as a statutory release scheme or for purchase.

#### Freedom of information (FOI) applications

The *Freedom of Information Act 1982* gives individuals a right to apply for access to documents held by Council. Council is committed to proactive and informal release of information in accordance with the *Freedom of Information Act 1982*, and the Professional Standards issued by the Office of the Victorian Information Commissioner. More information on Freedom of Information and the Professional Standards can be found at [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au). Individuals are encouraged to contact Council prior to submitting an application under Freedom of Information. Council staff can advise what documents are available for inspection and in some instances can assist with providing the requested information informally.

All Freedom of Information requests should be made to the Freedom of Information Officer.

### 3.7 Non-compliance with this Policy

If an individual 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 the individual is still not satisfied and would like a review of the decision, this can be reported to the Freedom of Information Officer.

If an individual is not satisfied with Council's review of the request, their concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222. or via the website – [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

## 4.0 Roles and Responsibilities

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Executive Leadership Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Executive Management Team	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
Executive Manager Safety, Risk and Compliance Services	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

## 5.0 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.

## 6.0 Supporting documents and references

### 6.1 Rules and Policies

Council's:

- a) Governance Rules;
- b) Public Transparency Principles;
- c) Governance Framework;
- d) Community Engagement Framework
- e) Community Engagement Policy;
- f) Privacy Policy; and
- g) Open Data Policy.

### 6.2 Legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Equal Opportunity Act 2010*
- *Freedom of Information Act 1982*
  - Professional Standards
- *Local Government Act 1989*
- *Local Government Act 2020*

- *Privacy and Data Protection Act 2014*

### 6.3 Definitions

<b>Community</b>	Community is a flexible term used to define groups of connected people. Council uses it to describe people of Ballarat generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality. More specifically, it can refer to everyone affiliated with the Ballarat municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views. Different types of communities often overlap and extend beyond municipal boundaries. Communities may be structured, as in clubs or associations or unstructured, such as teens. Communities are flexible and temporary, subject individual identity and location.
<b>Community consultation</b>	This is a form of community engagement that relates to the tools and practices used by Council to enable public involvement in decisions and actions that shape the community.
<b>Document</b>	Document has the same meaning as in the <i>Freedom of Information Act 1982</i> .
<b>Public participation</b>	Public participation encompasses a range of public involvement, from simply informing people about what government is doing, delegating decisions to the public and community activity addressing the common good.
<b>Stakeholder</b>	An individual or group with a strong interest in the decisions of Council and are directly impacted by their outcomes.
<b>Transparency</b>	A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also a human rights issue: that is, the right to have the opportunity, without discrimination, to participate in public affairs.

## 7.0 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 provides for 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.

## 8.0 Policy owner

The owner of this policy is the Chief Executive Officer. All enquiries regarding this policy should be initially directed to the Executive Manager Governance and Risk.

## 9.0 Applicability

The Policy applies to all Councillors, Council Officers and agents of the City of Ballarat.

## 10.0 Authorisation

Adopted by Ballarat City Council, 26 August 2020. R211/20