



Maribyrnong
CITY COUNCIL

Public Transparency Policy

Policy number:	4622	Endorsed by:	Council
Date endorsed:	21 May 2024	Policy Author:	Manager Governance and Commercial Services
Policy owner:	Manager Governance and Commercial Services	Review date:	May 2028
Policy Status:	Current	Policy type:	Council

Contents

- Public Transparency Policy 1
- Introduction 3
- Purpose..... 3
- Scope..... 3
- Definitions 4
- Public Transparency Policy..... 5
 - Council’s Decision Making Processes..... 5
 - Availability of Council Information 5
 - Accessibility of Council Information..... 6
 - Council Information Not Available 8
 - Dissatisfaction and Complaints 10
 - Application of this Policy 10
 - Human Rights Charter 10
- Roles and Responsibility 11
- Consultation..... 11
- References and Related Legislation..... 12
- Review of Policy..... 12

Introduction

The purpose of the Public Transparency Policy is to give effect to and formalise Council's commitment to the Public Transparency Principles contained in the Local Government Act 2020.

Purpose

This Public Transparency Policy is adopted in compliance with section 57 of the *Act*. The Public Transparency Policy:

- Outlines which Council information will be made publically available;
- Describes ways in which Council information will be made publically available in an accessible and timely manner;
- Describes the categories of Council information that may not be made publically available;
- Provides the Maribyrnong community with greater transparency and accountability in Council's decision making process.

Scope

The Policy applies to Councillors and Council Officers of Maribyrnong Council.

Definitions

Term	Definition
The Act	means the <i>Local Government Act 2020 (Vic)</i> .
Chief Executive Officer (CEO)	means: <ul style="list-style-type: none">• The person appointed by a Council to be its Chief Executive Officer under section 44 of the <i>Act</i> or any person acting in that position;• The Chief Executive Officer's delegate; and/or• Such other person that the Chief Executive Officer selects for the purpose of giving effect to this Policy
Closed Meetings	means a Meeting that is closed to members of the public under section 66 of the <i>Act</i> .
Confidential Information	means confidential information as defined in section 3(1) of the <i>Act</i> .
Community engagement	means the process of seeking public involvement in a matter.
Council	means Maribyrnong City Council.
Council Information	means all documents and other information held by Council.
Councillor	means a person elected to a vacant chair of the Maribyrnong City Council at any Victorian Local Government Election, or the most recent by-election as applicable.
Council Officer	means a person employed by the Maribyrnong City Council and includes the Chief Executive Officer (CEO).
Delegated Committee	means any Delegated Committee established under section 63 of the <i>Local Government Act 2020</i> .
Health Information	means health information as defined in section 3(1) of the <i>Health Records Act 2001</i> .
Personal Information	means personal information as defined in section 3(1) of the <i>Privacy and Data Protection Act 2014</i> .
Public Transparency Principles	means the public transparency principles under section 58 of the <i>Local Government Act 2020</i> .
Requestor	means a person making a request to access Council Information under and in accordance with this Policy.

Public Transparency Policy

Maribyrnong Council will give effect to and implement the Public Transparency Principles in accordance with this Policy and the Act.

Council commits to making all Council information publicly available, except where the information:

- a) Is 'Confidential Information' as defined under section 3(1) of the Act, unless Council has determined by resolution that the information should be made publicly available;
- b) Is confidential by virtue of any other Act; or
being made publicly available would be contrary to the public interest.

Council's Decision Making Processes

Council is committed to ensuring that all Council decisions are transparent, in accordance with the *Act* and open to giving the community the opportunity for meaningful engagement with Council and its decision-making processes.

Decisions made by Council will:

- Be made in accordance with the *Act* and Council's Governance Rules;
- Reflect the processes outlined in related Council policy in connection with the subject matter being discussed and in accordance with the practices and principles prescribed by the *Act* or any other Acts;
- Be made fairly and on the merits and made in the best interests of the City of Maribyrnong as a whole;
- Be made in consultation with, and participation of, a group, or a section or subset of a group, that would be directly affected by a Council decision;
- Be conducted in an open forum and accessible to the public; unless considering Confidential Information.

Further details of Council's decision-making process can be found in Chapter 1 of Council's Governance Rules.

Availability of Council Information

Council will make Council information publicly available, unless the Council Information is:

- Classified as Confidential Information; or
- Release of the Council Information has been determined by the Chief Executive Officer or appropriate Council Officer as being contrary to the public interest.

Council Information which will be made publicly available will be accessible through its website with all such information being regularly reviewed, updated, understandable and accessible.

Council will use various publications and social media channels where possible to promote availability of Council information to encourage community engagement and transparency.

The list of the categories of Council Information which will generally be made available either on Council's website or upon request is set out below:

Documents including:

- Plans and Reports adopted by Council;
- Council Policies;
- Project and Service Plans;
- Awarded tenders; and
- Council publications including a range of newsletters, reports and handbooks

Process information including:

- Application processes for permits, approvals, grants, access to Council services;
- Council policies;
- Community Engagement processes; and
- Complaints Handling processes

The following Council Information will be made available on Council's website:

- Councillor Code of Conduct;
- Meeting Agendas;
- Minutes of Meetings;
- Annual Budgets;
- Annual Reports;
- Audit and Risk Committee Charter;
- Register of Delegations;
- Register of Election Campaign Donations;
- Summary of Personal Interests; and
- Any other Registers or Records required by the Act or any other Act.

Accessibility of Council Information

Council will facilitate the awareness of access to Council information through its website and upon request.

Council will, where reasonably practical, facilitate access to Council Information by:

- Making Council Information available in accordance with this Policy;
- Upon request, make Council Information accessible in hardcopy or electric format
- Converting Council Information to different accessible formats where necessary for members of the Community for whom:
 - English is their second language; or
 - Disability requires an alternative means of access to be provided.

Where a requestor seeks access to Council Information not available on Council's website, or otherwise available upon request, the Chief Executive Officer or appropriate Council Officer will:

- Review the request;
- Assess whether the Council Information requested is Confidential Information, or its release would be contrary to the public interest; and
- Notify the Requestor of the outcome of that assessment.

If the Council Information requested is assessed as not being Confidential Information, or its release is assessed as not being contrary to the public interest, the Council Information will be provided to the Requestor.

Council Information will be provided to the Requestor by email unless the:

- Requestor seeks access in a different form as stated in this Policy, in which case the Council Information will be provided in that form, unless it is impracticable to do so;
- Chief Executive Officer or nominee, having regard to the nature of the Council Information requested, determines that the Council Information should be provided in a different form, such as by inspection.

If Council Information requested is assessed as being Confidential Information, or its release is assessed as being contrary to the public interest, the Requestor will be advised:

- that the request has been denied;
- of the reasons for the request being denied; and
- of alternative mechanisms by which they may seek access to the Council Information, such as making a request made under the Freedom of Information Act 1982).

Council publishes a statement under the Freedom of Information Act 1982, available on Council's website.

Where Council Information requested is assessed as being Confidential Information, or its release is assessed as being contrary to the public interest; but

- It is practicable for that Council Information to be provided with deletions so that it is suitable for release to the Requestor; and
- the Chief Executive Officer or nominee believes that the Requestor would want the Council Information in that format,
- the Council Information will be provided in that format.

Council Information Not Available

Some Council information may not be made publicly available. This will primarily only occur if the Council Information is considered confidential information or if its release would result in a breach of Council's statutory obligations with the *Privacy and Data Protection Act 2014*.

"Confidential Information" as defined by section 3(1) of the *Act* includes the categories below:

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 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 Local Government Act 1989

Council may by resolution decide to release information to the public even though it is considered confidential under the Act. However, this will not occur if release will be:

- Contrary to legal obligations;
- In breach of contractual requirements;
- Likely to harm or cause disadvantage to Council or any person; or
- If contrary to the public interest.

Contrary to the Public Interest

Council Information will not be made publicly available if doing so would be contrary to the public interest. Factors that may determine whether Council information that is to be made publically available would be contrary to the public interest include but is not limited to:

- Disclosure would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies.
- Disclosure would impair or impact contractual or other negotiations or would impair or impact legal proceedings.
- Information is in a draft or no longer current.
- The sensitivity of the information.
- Any adverse effect that releasing the information would have on the effectiveness of Council's decision-making processes.
- Disclosure of information or opinions of a preliminary nature such that they might either mislead the Community with respect to Council's position on a matter or have a substantial adverse effect on the economy of the municipality.
- Whether the information would impair or otherwise impact on Council's ability to obtain information in future that is similar in nature to the Council Information.
- The impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed as being frivolous, vexatious or repetitious in nature.

Access to information by Councillors

Councillors may request access to Council information by providing a request to the Chief Executive Officer, relevant Director or relevant Manager. Councillors will act reasonably in making a request for information.

Councillors have a right to access Council information that is reasonably necessary for exercising their functions as prescribed under section 28 of the Act, being

- (a) to participate in the decision making of the Council; and
- (b) to represent the interests of the municipal community in that decision making; and
- (c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan

When dealing with a request by a Councillor for information, the Chief Executive Officer must act reasonably. If a request is to be reasonably denied, reasons for the refusal must be identified and provided to that Councillor.

Any information that is provided to a particular Councillor in the pursuit of their civic duties should also be made available to any other Councillor who requests it.

Councillors are unable to use information provided for any purposes that are unrelated to their functions and duties as a Councillor, or which may cause detriment to Council.

Privacy

Council follows the *Privacy and Data Protection Act 2014* and its Privacy Policy when considering the release of Council Information. Council Information containing personal information will not be released without prior consent of the individual unless provided for by the *Privacy and Data Protection Act 2014*, its Privacy Policy or other Acts. If Council determines to release Council Information any personal information will be redacted.

Copyright

The intellectual property of some Council Information available for public access belongs to third parties and is the subject of copyright. Access to this information is provided to members of the public in accordance with relevant legislation. Copyright laws will apply to this information and Requestors are advised to seek the consent of the copyright owner before considering reproducing the information in any way.

Dissatisfaction and Complaints

If a requestor is dissatisfied with a decision regarding the release of information, this should initially be raised directly with the Council Officer handling the matter.

Where a requestor is still not satisfied and would like to seek review of the decision, this can be reported to Council's Manager Governance and Commercial Services

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

Application of this Policy

This Policy applies 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). This Policy does not apply to Council Information which is:

- required to be made available under the Planning and Environment Act 1987
- required to be made available under the Building Act 1993
- otherwise required to be made available on payment of a fee or charge.

Human Rights Charter

This policy has been reviewed against and complies with the *Charter of Human Rights and Responsibilities Act 2006* ("The Charter"). This Policy is consistent with the Charter and seeks to promote:

- Section 13 of the *Charter*
 - The protection of an individual's rights not to have their privacy unlawfully or arbitrarily interfered with; and
- Section 18 of the *Charter*
 - Which recognises a person's right to participate in the conduct of public affairs.

Council is committed to ensuring that all Council Reports considered by Council comply with the

Human Rights Charter and that the personal information of all persons concerned with Council are protected.

Roles and Responsibility

Type	Description
Councillors	<ul style="list-style-type: none"> Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making
Executive Leadership Team (ELT)	<ul style="list-style-type: none"> Champion behaviours across the organisation and in a manner that upholds Council’s reputation which fosters public transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Managers, Coordinators and Team Leaders	<ul style="list-style-type: none"> Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy. Take responsibility for responding to requests for information within the scope of this policy.
All Staff	<ul style="list-style-type: none"> Consider public transparency within the scope of their role and function. Respond to requests for information and facilitate provision of information in consultation with their manager and this policy.

Consultation

A process of community engagement will be followed in any amendment of Council’s Public Transparency Policy. This requirement will be met through the provisions outlined within Council’s Community Engagement Policy.

Implementation and Monitoring

Policy Owner	Directorate
Manager Governance and Commercial Services	Corporate Services

References and Related 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)
- *Privacy and Data Protection Act 2014* (Vic)
- *Public Records Act 1973* (Vic)
- Maribyrnong City Council's Community Engagement Policy
- Maribyrnong City Council's Governance Rules
- Maribyrnong City Council's Part II Statement made under the *Freedom of Information Act 1982*
- Maribyrnong City Council's Privacy Policy

Review of Policy

This Policy will be reviewed every four years or whenever Council determines that a need for review has arisen.