

# Recordkeeping and Information Access for Councillors

Policy | Integrated Risk

To ensure effective management of Council's records by Councillors

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# 1 Background

## 1.1 Title of the Policy and Commencement Date

The Recordkeeping and Information Access for Councillors Policy takes effect from 19 August 2019.

## 1.2 Purpose of the Policy

The purpose of this policy is to ensure that full and accurate records of the activities and decisions of Councillors, in the course of their official duties for Council, are created, managed and disposed of appropriately to meet Council's organisational needs and accountability requirements.

A record management program has been established by Council in accordance with section 12(2) of the *State Records Act, 1998*. This policy provides part of the framework for that program. More information on the records management program is available in POL/8005 Information Management (Recordkeeping) Policy.

# 2 Objective

## 2.1 Objectives and Coverage of the Policy

This policy has been specifically developed to assist Councillors to meet their recordkeeping responsibilities. Council staff members should refer to Council's Information Management (Recordkeeping) Policy and Information Management Procedures.

# 3 Application

## 3.1 Application of this Policy

All Councillors must comply with this policy in their conduct of official business for Council. Official business includes business relevant to the performance of the function and duties of the office of Councillor. This policy applies to records in all formats, including electronic records.

# 4 Definitions

For the purposes of this policy:

Term	Meaning
Act	The <i>State Records Act, 1998</i>
Access	Right, opportunity, means of finding, using or retrieving information
Appraisal	The process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, to meet business needs, the requirements of organisational accountability and community expectations.
Archives	Those records that are appraised as having continuing value



Disposal	A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, and the transfer or custody or ownership of records.
Recordkeeping	Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information
Recordkeeping systems	Information systems which capture, maintain and provide access to records over time.
Records	Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business. Any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means. Records include information in any format that has been received by an individual either through business or personal systems relating to a function of Council. This includes personal email addresses.
Record management program	A records management program encompasses the management framework, the people and the systems required within an organisation to manage full and accurate records over time. This includes the identification and protection of records with longer-term value that may be required as State archives.
Retention and Disposal Authority	Documents authorised by the Board of State Records NSW that set out appropriate retention periods for classes or records.
State archive	A State record that the State Records Authority of New South Wales has control of under the <i>State Records Act, 1998</i> (NSW).

## 5 Principles/Body

### 5.1 State Records

#### 5.1.1 Some Councillor's Records are State Records

Public offices are bound by the *State Records Act, 1998* (the Act) which establishes rules for best practice for recordkeeping in NSW Government, encouraging transparency and accountability. Councils are identified as public offices under section 3(1) of the Act. When discharging functions of Council, Councillors are subject to the Act when they create or receive 'State records'.

A State record is 'any record made and kept or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office'.



### 5.1.2 Examples of State records

Examples of State records include (but are not limited to):

- correspondence, including emails, regarding building and development matters
- a petition received from a community group
- declarations concerning a Councillor's pecuniary interests
- speech notes made for addresses given at official Council events, and
- complaints, suggestions or enquiries by rate payers about Council services.

### 5.1.3 Examples of records that are not State records

Conversely, records which are created, sent or received by Councillors when they are not discharging functions of Council are not considered to be State records for the purposes of the Act.

Examples of records that are not State records include (but are not limited to):

- records relating to political or electoral issues e.g. lobbying for votes, supportive emails from members of the community regarding elections or political stances
- communications regarding matters of personal/general interest rather than Council interest e.g. information from environmental or other interest groups not specific to issues being considered by Councillors or Council
- records relating to attendance at sports functions, church fetes, community functions when the Councillor is not representing Council
- personal records of councillors such as personal emails, character references for friends, nomination for awards, letters to local newspapers etc. that are not related to Council business

## 5.2 Records as a resource

Records are a vital asset to council. Many records created and received by Councillors have the potential to:

- support the work of Councillors and Council's program delivery, management and administration
- help Councillors and Council to deliver customer services in an efficient, fair and equitable manner
- provide evidence of Councillors' actions and decisions and establish precedents for future decision making, and
- protect the rights and interests of the Council, Councillors and its clients and rate payers.

A small percentage of records created and received by Councillors will become archives, part of the cultural resources of the State.



## 5.3 Creation and capture of records

### 5.3.1 What records to create and capture

Councillors should create and capture full and accurate records of any significant business undertaken in the course of their official duties for Council. Significant business can include:

- providing advice, instructions or recommendations
- drafts of documents for Council containing significant annotations or submitted for comment or approval by others
- correspondence received and sent relating to their work undertaken for Council.

Council is responsible for:

- creating and capturing records of Council or committee meetings where the Council is the secretary
- capturing any State records it sends to Councillors regarding Council business.

### 5.3.2 Creation of records of a confidential nature

On some occasions Councillors are approached and asked to keep matters discussed relating to Council business confidential. In this case they should refer the person to Council's Privacy Management Plan. This indicates that confidential conversations/correspondence must still be recorded and registered into Council recordkeeping systems if they refer to Council business. There are policies and security controls in place to ensure these records have limited access (see Section 9 Security and Confidentiality of Records), but these records may still need to be produced under relevant legislation, e.g. subpoena or the *Government Information (Public Access) Act, 2009*. With security controls in place records are likely to be less at risk than if they were not in recordkeeping systems.

### 5.3.3 How to create records

Council has a number of paper and electronic templates available for Councillors to use while conducting business for the Council. These will assist Councillors in ensuring that the essential information is recorded.

Details of significant advice, commitments etc. made during telephone or verbal conversations or via SMS should be recorded (e.g. time, date, parties involved, summary of discussion, commitments, advice given etc. and reasons for them). Notes in Councillors' diaries are generally not adequate where there are recordkeeping requirements: they should be converted into a formal file note. These records should be made as soon as possible after the event to ensure the information is accurate.

See Section 9 Security and Confidentiality of Records for information about the treatment of confidential matters.

### 5.3.4 How to capture records

Records of Council business that are created or received by Councillors (with the exception of those sent from Council as they are already captured) should be saved into official Council recordkeeping systems as soon as is practicable so that Council can assist with their long term management.



### 5.3.4.1 Paper Records

Records created or received in paper format should be forwarded to Council at the earliest opportunity to be scanned and registered into the recordkeeping system. If records are of a sensitive or confidential nature, the Councillor should alert the General Manager to this fact so that appropriate security controls can be applied.

### 5.3.4.2 Email and electronic records

Email and other electronic records should be forwarded to Council promptly for registration. When responding to emails cc in [council@singleton.nsw.gov.au](mailto:council@singleton.nsw.gov.au) so that Council will receive both the original and responding email. If records are of a sensitive or confidential nature, the Councillor should notate the email accordingly so that the appropriate security controls can be applied.

See Section 5.5 Security and confidentiality of records for information about security controls for sensitive records.

### 5.3.4.3 Councillors' copies

If a Councillor retains copies of any records once the originals have been forwarded for registration, these should be retained only while needed for current Council business. Only destroy copies of records forwarded to Council once all actions have been completed. The routine destruction of copies of records is permitted under *the State Records Act (section 21(2))*. See Section 5.10 Disposal for more information.

It is important to recognise that these copies should be treated like the originals with regard to security controls applied (see Section 5.9 Handling and storage of records).

## 5.4 Registration of records by Council

### 5.4.1 Registration procedures

Records received from Councillors for registration will be handled in accordance with the Council's Information Management procedures.

See Section 5.5 Security and confidentiality of records for information about security controls applied to sensitive records.

### 5.4.2 Councillors' mail (including email)

Mail received by Council for Councillors will be processed as per Information Management procedures. Envelopes will be opened unless marked "Private and Confidential". If the incoming mail or email requires registration it will be registered by Information Management Officers and the record emailed to the Councillor for action. A copy will be placed in the Councillor's pigeon hole. If the incoming mail or email does not require registration it will be placed in the Councillor's pigeon hole.

Information in other formats will be registered as per Information Management procedures and referred via email to the Councillor.

It is the Councillor's responsibility to ensure information received marked "Private and Confidential" is returned to Council for registration if required.





## **5.5 Security and confidentiality of records**

### **5.5.1 System controls**

Council's records management software controls both paper and electronic records and restricts access according to security levels.

### **5.5.2 Rules for Council staff and Councillors**

Council staff and Councillors are bound by Council's Code of conduct, preventing unauthorised access or disclosure of Council records.

See Section 5.9 Handling and storage of records for advice regarding Councillors' security responsibilities when storing records.

## **5.6 Access to records of Council**

### **5.6.1 Access relating to civic duties**

Councillors need to have access to information held by Council to help them make informed decisions on matters under their consideration. This information should be relevant and appropriate to the discharge of their obligations e.g. records relating to matters before Council or due to be listed for which there is notification.

As a first step, Councillors should make a written request for information in accordance with the Interactions Between Councillors and Staff Policy.

Councillors wishing to access records that have access restrictions higher than their level of clearance must substantiate the reason for the request. Information made available to one Councillor will be made available to all Councillors.

Records in physical format can be made available for viewing during normal business hours. Records must be viewed in the presence of a Council officer.

### **5.6.2 Access relating to personal interest**

Councillors wishing to access records in relation to a matter of personal interest have the same rights as other members of the public. Access may be obtained, for example, under:

- *Privacy and Personal Information Protection Act, 1998;*
- *Health Records and Information Privacy Act, 2002;*
- *State Records Act, 1998; or*
- *Government Information (Public Access) Act, 2009.*

### **5.6.3 Refusal of access**

If a Councillor is refused access to records, they should refer to any appeal provisions of the relevant Act.

### **5.6.4 More information on access**

More information on gaining access to Council records can be obtained from the Coordinator Governance.

See also Section 5.8 Unauthorised access or disclosure of council records



## **5.7 Borrowing records of Council**

### **5.7.1 Borrowing paper-based records**

Under section 11(1) of the *State Records Act, 1998* Councils are required to ensure the safe custody and proper preservation of records they are responsible for. Councillors cannot borrow a paper-based Council record in the course of their duties for Council.

Copies will only be provided if the information requested has no security requirements, is not copyrighted and contains information that is in the public interest to be released. Information made available to one Councillor will be made available to all Councillors.

### **5.7.2 Borrowing records in electronic form**

Copies of records in electronic form will be rendered into PDF format before being sent to the Councillor. Copies will only be provided if the information requested has no security requirements, is not copyrighted and contains information that is in the public interest to be released.

Information made available to one Councillor will be made available to all Councillors.

### **5.7.3 Loss of records**

Councillors are responsible for records marked out to them and should protect them accordingly. If a record is not able to be located, the Councillor is to advise the Coordinator Governance as soon as possible.

### **5.7.4 Archives**

Council policy regarding archives is that they are not to be borrowed. They should rather be viewed within Council offices during normal working hours in the presence of a Council officer. Photocopies of relevant pages can be made available to Councillors if restrictions on copying do not apply.

## **5.8 Unauthorised access or disclosure of Council records**

*The Local Government Act, 1993 section 664(1)* prohibits the disclosure of information obtained in connection with the administration or execution of the Act, except in certain specific circumstances. Councillors are also bound by the Council's Code of conduct not to:

- attempt to access records they are not authorised to see
- provide unauthorised access to other parties while Council records are in their care
- disclose confidential information about Council business, or
- disclose personal information of employees, clients etc. without the subject's consent.

These rules help to ensure that Council and its staff and clients are protected and that the requirements of relevant legislation, such as privacy legislation, are met.



## 5.9 Handling and storage of records

### 5.9.1 Damage or neglect of records is an offence

Damage or neglect of a State record is an offence under *section 21 of the State Records Act, 1998*. Councillors should apply the storage and handling rules below to ensure records are protected.

### 5.9.2 Handling of records

When handling Council records the following rules apply:

- registered documents are not to be rearranged or removed from Council files (the order provides context for the records) and information on files should never be altered
- no food or drink is to be consumed near records (grease and food particles can attract vermin and liquids can damage records if spilt on them)
- strictly no smoking around records (due to airborne pollutants and the risk of fire)
- if records are damaged during handling, the Coordinator Governance should be informed. No attempts should be made to repair the record (as some repairs can do long term damage).

Information on handling specific formats is available in State Records' *Recordkeeping in Brief 14: Handle with care* or can be provided by Council's Information Management staff.

### 5.9.3 Storage of records

If Councillors need to store original paper based records for a short period prior to them being given to the appropriate staff member they should preferably be stored in a locked metal cabinet. The records should be kept this way for as short a period as possible.

When storing Council records temporarily the following rules apply:

- records are to be kept away from known risks such as water, fire, mould, vermin, vandalism, chemicals, direct sunlight, extreme temperatures etc.
- electronic records should be protected against additional hazards such as viruses or electronic fields
- records should be secured appropriate to their level of sensitivity. No Council records should be left in plain view in vehicles or lying around the house.

Councillors who are storing records of a sensitive or confidential nature should ensure that they are appropriately protected using a locked metal cabinet for paper based information and locking down the computer screen when away from the computer. Councillors should never let family members use computer equipment supplied to them by Council and used for the storage of state records.

## 5.10 Disposal of records

### 5.10.1 Disposal in accordance with the State Records Act

State records held by Councillors must be disposed of in accordance with *the State Records Act, 1998*.



State Records NSW has issued *General Retention and Disposal Authority - Local Government records (GDA10)*, which outlines classes of records and how long they should be kept before being legally destroyed or transferred to archives. Periods specified are based on relevant legislation, guidelines and standards. Failure to keep records for the length of time specified in the GDA may put Councillors and Councils at risk.

Other forms of authorised disposal include:

- by order of a court or tribunal
- 'normal administrative practice' (NAP) where ephemeral, duplicate or facilitative records can be destroyed. State Records has produced *Guidelines on Normal Administrative Practice (NAP)* which provide further information on the application of NAP.

#### 5.10.2 Liaison with Council for disposal

Councillors should liaise with Council regarding the disposal of any records of Council business as Council is responsible for:

- ensuring legislative requirements are met
- ensuring destruction is undertaken appropriately (e.g. that no sensitive information is released due to inappropriate destruction methods), and
- documenting disposal decisions for accountability purposes.

Council's Information Management staff should be primarily responsible for the disposal of State records, unless other arrangements are approved.

Councillors are requested to refer all paper based information for destruction to the Coordinator Governance who will liaise with Information Management to ensure the secure destruction of all records.

Under no circumstances is information of a secure or sensitive nature to be placed in a general waste bin.

## 6 Relevant Legislation

- *Environmental Planning and Assessment Act, 1979*
- *Evidence Act, 1995*
- *Government Information (Public Access) Act, 2009*
- *Health Records and Information Privacy Act, 2002*
- *Local Government Act, 1993*
- *Privacy and Personal Information Protection Act, 1998*
- *State Records Act, 1998 – including standards and retention and disposal authorities issued under the Act*
- *State Records Regulation, 2010*

## 7 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.



## 7.1 Related Documents

Related documents, listed in **Table 7-1** below, are internal documents directly related to or referenced from this document.

Number	Title
POL/8005	Information Management (Recordkeeping) Policy
POL/30004	Privacy Management Plan
POL/1011	Code of Conduct
POL/8006	Information Communication Technology User Policy
POL/1016	Interactions Between Councillors and Staff Policy

Table 7-1 – Related documents

## 8 Responsible Officer / Policy Owner

Ownership of this policy rests with the Coordinator Governance.

## 9 Responsibilities

Parties or Persons	Responsibilities
Director Corporate & Community Services	<ul style="list-style-type: none"> <li>The Director Corporate and Community Services Group is responsible for planning, leading and managing the Corporate and Community Services Group which is charged with the responsibility for information management at the corporate level.</li> </ul>
Manager Corporate & Community Services	<ul style="list-style-type: none"> <li>The Manager Corporate &amp; Community Services is responsible for planning, leading and managing the Information Services Program Area which is charged with the responsibility for information management (recordkeeping) at the senior management level.</li> </ul>
Mayor and Councillors	<ul style="list-style-type: none"> <li>All public officials are required to make and keep full and accurate records in their capacity as public officials.</li> <li>This includes but is not limited to the requirements under <i>the State Records Act</i>:</li> <li>Create records routinely as part of your work.</li> <li>File records into official systems.</li> <li>Handle paper records with care.</li> <li>Do not destroy records without authority.</li> <li>Protect sensitive records from unauthorised access.</li> </ul>

## 10 Approval

As per cover sheet.

## 11 Monitoring

This policy will be monitored by the Coordinator Governance to ensure compliance.



## **12 Review Date**

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years to ensure that it meets legislative requirements.

## **13 Last Review Date**

This policy was last reviewed on 17 July 2017.

## **14 Record Keeping, Confidentiality and Privacy**

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

## **15 Breaches and Sanctions**

Any breaches of this Policy will be referred to the General Manager for appropriate action.

Revoked

