

PUBLIC TRANSPARENCY POLICY

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Responsible Officer:	Manager Governance
Owner:	Governance
Responsible Director:	Corporate Performance
Relevant Legislation/Authority:	<i>Freedom of Information Act 1982 (Vic)</i> <i>Local Government Act 2020 (Vic)</i>
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1. PURPOSE

The purpose of this policy is to:

- 1.1 increase public trust and confidence in the Council and City's decision-making through greater understanding and awareness;
- 1.2 facilitate access to information held by the City in a timely manner;
- 1.3 support good governance and accountability;
- 1.4 provide greater clarity around Council and City decision making; and
- 1.5 ensure compliance with legislative obligations.

2. BACKGROUND

- 2.1 Transparency and access to government information is a core principle of democratic governance. Systems that are open, accountable and honest are fundamental to building trust within the community and enabling fully informed engagement in the democratic process. Without transparency and engagement, the core responsibilities of local government cannot be achieved.
- 2.2 Importantly, transparency and information sharing better enable the Municipal Community to contribute to policy formulation, assist regulation compliance, participate in program administration, support decision making and evaluate service delivery performance.

- 2.3 The *Local Government Act 2020* (Vic) (**Act**) supports the City's commitment to the principles of open, honest and accountable governance. One of the overarching principles of the Act is that the transparency of Council decisions, actions and information is to be ensured. This policy formalises the City's commitment to transparency in its decision-making processes and the public awareness of the availability of City information.
- 2.4 This policy fulfils the City's requirement to adopt and maintain a public transparency policy under section 57 of the Act and gives effect to the Public Transparency Principles outlined in section 58.

3. SCOPE

This policy applies to all Councillors and Staff.

4. DEFINITIONS

Act means the *Local Government Act 2020* (Vic).

City means the Greater Bendigo City Council, being a body corporate constituted as a municipal Council under the *Local Government Act 2020* (Vic).

Confidential Information means the following information in accordance with section 3 of the *Local Government Act 2020* (Vic):

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 <i>Local Government Act 1989</i> .
Information prescribed by regulations	Information prescribed by the Act's regulations to be confidential information.
Confidential information under other legislation.	Information that is deemed confidential by virtue of any other legislation.

Council means all of the Councillors collectively.

FOI means freedom of information.

FOI Act means the *Freedom of Information Act 1982* (Vic).

Municipal Community means:

- (a) people who live in the municipal district of the City;
- (b) people and bodies who are ratepayers of the City;
- (c) traditional owners of land in the municipal district of the City; and
- (d) people and bodies who conduct activities in the municipal district of the City.

Public Interest Test means the standard test the City will apply when determining whether release of information is contrary to the public interest. The City will consider the harm likely to be created by releasing the information against the public benefit in being transparent. When considering possible harm from releasing information, the City will only concern itself with harm to the community or members of the community. Potential harm to the City 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 City from performing its functions.

Staff means all employees of the City, including the CEO, volunteers engaged by the City and consultants and contractors directed by the City to comply with this policy.

5. PRINCIPLES

This policy is guided by the following principles:

- 5.1 Transparency at the City means enabling others to see and understand how the organisation operates in an honest way. It also means **ensuring** the availability of all information needed in order to collaborate, cooperate and make decisions effectively;
- 5.2 Open access to City information – If there is no legal or commercial requirement to protect the information, it should be open to public access;
- 5.3 Promotion of integrity and accountability – The City's decisions, actions and performance are open to public scrutiny; and

5.4 Increased awareness around decision-making processes – The City's decisions, actions and performance are clearly explained, and this policy is easily accessible to the public.

5.5 Council decisions are made within the legal framework within which it must operate.

6. POLICY

6.1 Council meetings

Decision making at Council meetings will be:

6.1.1 undertaken in accordance with the Act and the City's Governance Rules;

6.1.2 conducted in an open and transparent forum, unless in accordance with the Act and the Governance Rules;

6.1.3 informed through community engagement, in accordance with the Community Engagement Principles described in the Act and the City's Community Engagement Policy;

6.1.4 made fairly on the merits and principles of procedural fairness will be applied.

6.2 Decisions made under delegation

Staff making decisions under delegation must have regard to the public transparency principles in the Act.

6.3 Information publicly available

6.3.1 The following information will be available publicly, either by way of electronic publication on the City's website, inspection or on request, to ensure the Municipal Community is informed and can benefit from access to information regarding Council's functions and operations:

- Council meeting agendas and minutes
- Councillor and Staff codes of conduct;
- Council policies and organisational policies;
- annual reports;
- records of election campaign donation returns;
- interstate and international travel details of Councillors and City staff;
- summary of personal interest returns;
- submissions received under Section 223 of the *Local Government Act 1989* (Vic) during the previous 12 months until its repeal;
- Councillor and employee register of gifts, benefits and hospitality
- donations and grants made by the City during the financial year;
- agreements to establish regional libraries;
- register of leases entered into by the City as a lessor (where the City is the owner);
- register of authorised officers appointed by Council;

- organisations of which the City was a member during the financial year and details of membership fees and services provided;
- instruments of delegation;
- register of processes and operating procedures where appropriate;
- application processes for approvals, permits, grants, access to Council services;
- decision making processes;
- guidelines and manuals;
- road management plans;
- register of roads;
- community engagement processes;
- complaint handling processes; and
- any other registers or records required by legislation

6.3.2 A list of available information is also provided in the Part II Statement published in accordance with the FOI Act. Part II of the FOI Act requires government agencies and local councils to publish several statements designed to assist members of the public in accessing the information it holds. The Part II Statement is available on the City's website by accessing the following link:
<https://www.bendigo.vic.gov.au/About/Document-Library/part-ii-statement>

6.3.3 The City publishes a range of newsletters, reports and handbooks for residents, businesses and visitors. These documents can be accessed from the website or by calling the City for a copy. Some of these publications are available at the City's libraries.

6.4 Access to information

6.4.1 The information referred to in clause 6.3 will be made available in a variety of ways including on the City's website or at the City offices. Some information may only be available by request.

6.4.2 The City will use social media to publish or stream information, such as Council Meetings, and other online tools, such as Let's Talk Greater Bendigo, to encourage community engagement and consultation on project and community related matters.

6.4.3 Members of the public can make various kinds of information requests to the City. For example, informal requests for documents and information or formal requests under the FOI Act.

6.4.4 The City will endeavour, where possible, to provide the community with access to information free of charge, but where a request is deemed unreasonable or too voluminous, or where a fee is prescribed by legislation for the provision of information consideration will be given to charging a reasonable fee for accessing the documents. Such requests may also be required to be processed under FOI.

6.4.5 If a decision is made that a request is unreasonable or too voluminous the applicant will be provided with reasons for this decision.

6.4.6 Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

6.4.7 The City will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

6.4.8 This policy will be published on the City's website and will be made available in hard copy upon request.

6.5 FOI applications

The FOI Act gives everyone the right to access documents held by governmental agencies and Ministers, including the City. If a member of the public cannot locate a particular document they are seeking, the City encourages them to make contact before lodging an FOI application. In some instances, the City will be able to provide the information without going through the formal FOI process.

6.6 Information not available

6.6.1 City information may not be publicly available if:

- a) it contains Confidential Information (see definition of Confidential Information);
- b) release would be contrary to the public interest (see clause 6.7);
- c) disclosure would be contrary to the City's obligations under the *Privacy and Data Protection Act 2014* (Vic); or
- d) if access is managed under another Act.

6.6.2 The City may decide, in the interests of transparency, to release information to the public even though it is Confidential Information. However, this will not happen if release is contrary to law, in breach of contractual requirements, likely to cause harm to any person or is not in the public interest to do so. Councillors and Staff must consult with the City's Legal Services team prior to releasing any Confidential Information.

6.7 Public Interest Test

6.7.1 When determining whether release would be contrary to the public interest, the City will apply the Public Interest Test.

6.7.2 The City is not required to make publicly available information if the release would be contrary to the public interest. The City may refuse to release information if it is satisfied that the harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.

6.7.3 Information that might be withheld because it is contrary to the public interest may include (without limitation):

- a) internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public or cause ill-informed debate;
- b) directions to Staff regarding negotiations in contractual or civil liability matters, where release may damage the City's capacity to negotiate the best outcome for the community; or
- c) correspondence with members of the community, where release may inappropriately expose a person's private dealings.

6.8 Non-compliance with this policy

- 6.8.1 If a member of the community wishes to question a decision about the release of information, this should be raised directly with the staff member handling the matter in the first instance. If the matter is still not resolved and the member of the public would like to contest the decision, this can be reported to the City's FOI Officer by emailing foi@bendigo.vic.gov.au or calling 03 5434 6000.
- 6.8.2 If the member of the public is not satisfied with the City's response, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website: www.ombudsman.vic.gov.au.
- 6.8.3 If a member of Staff has any questions or concerns about the release of a document, they can raise a query with the City's FOI Officer or their people manager.

6.9 Monitoring, evaluation and review

- 6.9.1 The City commits to monitoring processes, information sharing and decision making to understand the overall level of success in this policy's implementation.
- 6.9.2 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.

7. ROLES AND RESPONSIBILITIES

7.1 Staff

- 7.1.1 Public transparency is the responsibility of all Staff as appropriate to their role and function.
- 7.1.2 All Staff will respond to requests for information within 14 days and facilitate provision of information in consultation with their people manager in alignment with this policy.

7.2 Managers

7.2.1 Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.

7.2.2 Communicate this policy to their team.

7.2.3 Demonstrate behaviour that fosters transparency and drive principles through policy, process and leadership.

7.3 Manager Governance

7.3.1 To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

7.3.2 Communicate this policy to the organisation.

7.3.3 Provide educational resources and training to the organisation on the importance of transparency.

7.4 Executive Management Team

7.4.1 Champion behaviours that foster transparency and drive the principles through policy, process and leadership.

7.4.2 Monitor implementation of this policy.

7.5 Council

Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.

8. RELATED DOCUMENTS

Readers are encouraged to access the following relevant documents and resources:

- *Charter of Human Rights and Responsibilities Act 2006*
- *Freedom of Information Act 1982*
- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- *Equal Opportunity Act 2010.*
- The City's:
 - Governance Rules
 - Community Engagement Policy
 - Privacy Policy

Further information or advice on this policy should be directed to Governance

9. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

10. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made with the approval of EMT or where required, resolution of Council.

11. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version	Next Review Date
<i>June, 2020</i>	<i>JN</i>	<i>Governance</i>	<i>Develop</i>	<i>1</i>	<i>Aug 2021</i>
<i>Aug, 2020</i>	<i>JCH</i>	<i>Governance</i>	<i>Develop</i>	<i>2</i>	<i>Aug, 2021</i>
<i>Dec, 2021</i>	<i>RM</i>	<i>Governance</i>	<i>Annual review</i>	<i>3</i>	<i>Dec, 2022</i>
<i>June, 2023</i>	<i>RM</i>	<i>Governance</i>	<i>Review</i>	<i>4</i>	<i>June, 2027</i>