

RECORDS MANAGEMENT FOR COUNCILLORS

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OBJECTIVES

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 in accordance with Council's organisational needs and the State Records Act 1998 and the Government Information (Public Access) Act 2009.

APPLICABILITY

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.

GENERAL

Council is bound by the State Records Act 1998 and the Government Information (Public Access) Act 2009 which establish rules for record keeping to ensure transparency and accountability. Councillors, in undertaking their role as an elected member, are subject to these rules and must ensure proper records management, as set out in this Policy and associated Procedure.

PROCEDURE

Council has adopted the "Model Records Management for Councillors" procedure prescribed by Records NSW. This procedure is to be applied when dealing with Council records.

Councillors should be aware that any document of information held, created or received relating to Council business, falls within the definition of "Government Information" under the Government Information (Public Access) Act 2009.

Any correspondence directed to Councillors via Orange City Council will be opened by Records Staff and processed in accordance with the attached procedure.

RELATED POLICIES/DOCUMENTS

State Records Act 1998

Government Information (Public Access) Act 2009

Local Government Act 1993

Privacy and Personal Information Protection Act 1998

Code of Conduct

Strategic Policy - Councillors Access to information and their interaction with staff

Strategic Policy - Councillors - Payment of Expenses and Provision of Facilities

Responsible Area – Corporate and Commercial Services

REVISION					
	DATE	RESOLUTION		DATE	RESOLUTION
1	January 2007	07/207	6	17 Nov 2015	15/541
2	November 2009	09/453	7	6 February 2018	18/034
3	May 2012	12/166	8		
4	21 May 2013	13/223	9		
5	August 2014	14/955			
All policies can be reviewed or revoked by resolution of Council, at any time.					

SUMMARY OF AMENDMENTS

Date	Amendment
November 2017	<p>Formatting updates.</p> <p>1.2.1 - Clarification that any correspondence sent to a Councillor relating to any Council business (including any correspondence sent to a Council-provided or private email or postal address) is a "State Record"</p> <p>2.3.2 - Clarification that any records should be forwarded to the Executive Support Manager for processing into Council's system.</p>
October 2015	<p>Formatting updates.</p> <p>1.2.1 – Clarification that a Council record is any correspondence relating to Council business.</p> <p>1.2.2 – Councillors providing personal character references must not provide these on Council letterhead.</p> <p>2.4 – Where mail addressed to a Councillor relates to an operational issue, it will be referred to a staff member for response, and the Councillor notified.</p>
August 2014	<p>Provision that any correspondence directed to Councillors via Orange City Council will be opened and processed by Records Staff into Council's Electronic Document Management System with a copy provided to the Councillor.</p> <p>Procedure updated –formatting changes.</p>
May 2013	<p>Now provides for Councillors using the Council email to receive Council-related correspondence.</p>
February 2013	<p>Update to include Government Information (Public Access) Act 2009 (GIPA)</p>



RECORDS MANAGEMENT FOR COUNCILLORS

Procedure

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1 General

1.1 Introduction

Council is bound by the State Records Act 1998 (“Act”) which establishes rules for best practice for record keeping, encouraging transparency and accountability.

Councillors, when discharging functions of Council, are subject to these rules as set out by the Act when they create or receive “State Records”.

A Council is identified as a public office under section 3(1) of the Act. Councillors are subject to the Act when they create or receive ‘State Records’ while undertaking business on Council’s behalf. They are not subject to the Act when conducting personal business or business that is unrelated to their role as Councillors.

1.2 What is a Record?

A “Record” is ‘any document or other source compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means’ (State Records Act 1998, Part 1, Preliminary, Section 3(1) Definitions).

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’ (State Records Act 1998, Part 1, Preliminary, Section 3(1) Definitions).

1.2.1 Examples of State Records

Examples of “State Records” include (but are not limited to):

- Correspondence, including emails, relating to any Council business (including correspondence sent to a Council-provided or private email or postal address)
- A petition received from a community group
- Declarations concerning a Councillor’s pecuniary interests
- Speech notes made for addresses given at official Council events
- Complaints, suggestions or enquiries by residents about Council services
- Any written response provided by the Councillor to any of the above examples.

1.2.2 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 *State Records Act 1998*.

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

- Records relating to political or electoral issues eg 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 eg 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 (these should not be written on Council letterhead), nomination for awards, and letters to local newspapers etc that are not related to Council business.

1.3 Importance of Record Keeping

Accurate record keeping provides protection for Councillors, in the event that questions are raised regarding conduct. Documenting events, activities and decisions enables Councillors to recall or provide information on a matter when required and supports transparency of Councillor Conduct.

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 Delivery/Operational Plan, management and administration.
- Help Councillors and Council deliver customer service in an efficient fair and equitable manner.
- Provide evidence of Councillor's actions and decisions and establish precedents for future decision making.
- Protect the rights and interests of the Council, Councillors and customers.

2 Creating and Capturing Records

2.1 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.
- Capturing any State Records it sends to Councillors regarding Council business.

2.2 How to create records

Council has paper and electronic templates available for Councillors to create emails, faxes, letters and memos 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 using the Council's standard file note template. Details should be recorded to include the following:

- Date and time
- Parties involved
- Summary of discussion
- Commitments
- Advice given
- Reasons for commitment/advice given

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.

2.3 How to capture records

2.3.1 Paper records

Councillors are to keep paper records together and **at the end of each month**, transfer them to the General Manager. Any confidential documents should be marked “CONFIDENTIAL” so that appropriate security measures can be implemented.

Records received from Councillors will be registered into Council’s electronic document management system, with appropriate security controls attached.

2.3.2 Email and electronic records

Councillors are to provide any electronic records including emails, keep such records together and **at the end of each month**, transfer them to the Executive Support Manager for registration into Council’s Records System. Any confidential documents should be marked “CONFIDENTIAL” so that appropriate security measures can be implemented.

For Councillors utilising a Council email address, a copy of all emails is automatically securely stored in Council’s archives.

Records received from Councillors will be registered into Council’s electronic document management system, with appropriate security controls attached.

2.3.3 Councillor copies

Councillors may wish to retain a copy of any record. Copies should only be retained while needed for current Council business.

2.4 Councillors’ mail

Any incoming mail or email addressed to Councillors will be opened and processed by Records Staff. Mail or emails relating to Council business will be processed into Council’s Electronic Document Management System where correspondence addressed to Councillors relates to operational matters, the letter will be referred to the Executive Support Manager for forwarding to the relevant staff member for response. Councillors will be notified of this and be provided a copy of the correspondence. Any mail not related to Council business will be forwarded to the Councillor.

2.5 Creation of State Records

Should a Councillor create a document on behalf of Council that:

- Provides instructions
- Gives permission or consent
- Makes decisions, commitments or agreements binding on Council

The document must be approved by the Mayor and/or General Manager prior to it being sent. This applies to hard copy and electronic documents. Approval is not required for documents created purely on behalf of the Councillor, with no implicit or explicit impact on Orange City Council.

If it is deemed that a proposed document will contravene Council policy, breach a Council resolution or intention, the Mayor may rule the document inappropriate and require the document to be destroyed.

3 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 and Code of Meeting Practice **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.

4 Handling and Storage of records

4.1 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.

4.2 Storage of Records

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
- 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.

Copies of confidential business papers or documents can be forwarded to the Executive Support Manager for destruction.

5 Disposal of records

5.1 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. Such records should be returned to the Executive Support Manager.

State Records NSW has issued General Retention and Disposal Authority – Local Government Records (GA39), 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 GA39 may put Councillors and Council at risk.

5.2 Liaison with Council for disposal

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

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

6 Access to records of Council

For information regarding Councillors' Access to Information/records, please refer to separate policy and associated procedure - "Councillors Access to Information and their Interaction with Staff".

7 Security and Confidentiality of Records

7.1 Building Controls

Council's paper records are kept securely in Council's buildings with security controls to protect against unauthorised access.

7.2 System Controls

Council's records management software which controls electronic records restricts access according to security levels. Each electronic record is classified on registration and this classification determines users who have access to the record.

8 Breaches

Breaches of this Policy will be dealt with by the Mayor and/or General Manager in accordance with the Code of Conduct.

9 References

- State Records - *What have records got to do with me?* available at:
<https://www.records.nsw.gov.au/recordkeeping/what-have-records-got-to-do-me-local-government>
- State Records – *Recordkeeping Fundamentals for Councillors*, available at:
<https://www.records.nsw.gov.au/sites/default/files/Recordkeeping/Recordkeeping-Fundamentals-NSW%20Local%20Government%20Councillors%20-%20Printable.pdf>
- State Records - *Destruction of records*, available at:
<http://www.records.nsw.gov.au/recordkeeping/advice/retention-and-disposal/destruction-of-records>
- State Records - *General retention and disposal authority: local government records (GA39)* available at:
<https://www.records.nsw.gov.au/recordkeeping/rules/gdas/ga39>
- See also Independent Commission Against Corruption, *Lobbying local government councillors*, 2006, available at:
www.icac.nsw.gov.au which includes recommendations for recordkeeping.

See also NSW Ombudsman – *Good Conduct and Administrative Practice: Guidelines for state and local government*, available at:
<https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/good-conduct-and-administrative-practice>

10 Attachments

- 10.1 Template 1- Meeting note
- 10.2 Template 2 – File note

10.1 Template 1 – Meeting Note

COUNCILLOR MEETING NOTE

SUBJECT

DATE..... TIME.....

PRESENT.....

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DISCUSSED

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ACTIONS/DECISIONS

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NAME SIGNATURE.....

COUNCILLOR

<p>Office Use Only</p> <p>Registered date..... Container</p>

10.2 Template 2 – File Note

COUNCILLOR FILE NOTE

SUBJECT

DATE..... TIME.....

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NAME SIGNATURE.....

COUNCILLOR

<p><i>Office Use Only</i></p> <p>Registered date Container.....</p>
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