

Hobsons Bay Public Transparency Policy

2020 Version 1.0

1 Purpose

The Public Transparency Policy is a requirement of section 57 of the *Local Government Act 2020* ('the Act') and has been developed to ensure Hobsons Bay City Council gives effect to the public transparency principles outlined in section 58 of the Act.

This policy supports the principles of good governance, open and accountable conduct and describes what and how Council information is made publicly available.

2 Objectives

The objective of Council's Public Transparency Policy is to formalise its commitment to making decisions in a transparent way and improving the public's awareness regarding the availability of Council information. As a result, this policy seeks to promote:

- a) greater clarity in Council's decision-making processes
- b) increasing the municipal community's confidence and trust in Council through greater understanding and awareness
- c) improved Council performance
- d) access to public information by making it easily accessible and available in a timely manner;
- e) reassurance to the municipal community that Council is spending public monies wisely

A transparency policy needs to cover both documentary information, process information and how information will be made available to the public. It is an important part of good governance practice.

3 Background

Section 57 of the Act requires Council to adopt and maintain a public transparency policy. The *Public Transparency Principles* are outlined in section 58 of the Act as follows:

- (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.

4 Scope

This policy applies to Councillors and Council staff.

5 Definitions

For the purposes of this policy, Council adopts the following definitions:

Municipal Community	<p>People of a municipality generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.</p> <p>More specifically, it refers to everyone affiliated with the municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views.</p>
Consultation	The process of seeking input on a matter.
Confidential Information	Confidential information” is defined in section 3 of the <i>Local Government Act 2020</i> as is detailed further in section 7 of this policy.
Transparency	<p>Sharing information to enable the municipal community to see and understand how Council operates in an open and honest way. It is the provision of information that is accurate, complete and made available in a timely way. Transparency enables accountability.</p> <p>This does not mean all information should be made publicly available. There are certain types of information that may not be provided publicly such as private information about individuals and ‘commercial in confidence’ material (such as tender submissions).</p>
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. Council will determine this on a case by case basis.

6 What will Council be transparent with?

Council Meetings

Decision Making at Council meetings will be:

- undertaken in accordance with the Act and the Governance Rules
- conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules
- informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy. Community consultation on a matter will be undertaken for a minimum of four weeks and may be extended for a longer period by Council resolution
- made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered

Publicly Available Information

Under the Act (and, in some cases, the *Local Government Act 1989*), there are specific provisions for certain information to be made publicly available, namely:

- Register of Delegations made by Council
- Council and Delegated Committee Meeting Agendas and Minutes (unless designated as confidential under the Act or Governance Rules)
- Local Laws and any documents incorporated
- Council Plan
- Strategic Resource Plan

- Budget
- Annual Report
- Councillor Code of Conduct
- Procurement Policy
- Summary of Personal Interests
- Reappointment of CEO without advertisement;
- Differential Rates
- Summary of Election Campaign Donation Returns
- Submissions received under section 223 of the Local Government Act 1989 until it's repeal

Council will also make the following Council information publicly available to ensure the community are informed and can benefit from access to information regarding Council's functions and operations:

- All Council adopted policies, plans and strategies
- Governance Rules
- Code of Conduct for Council Staff
- Register of Delegations made by the CEO
- Register of Authorised Officers
- Register of Interstate and Overseas Travel by Councillors and Staff
- Register of Land Leases entered into by Council
- Register of Donations and Grants made by Council
- Register of Gifts, Benefits and Hospitality received by Councillors and Council staff
- Register of Contracts Awarded by Council
- Planning Permits and Endorsed Plans
- Planning Permit Delegate Reports
- Terms of Reference for Advisory Committees

Under various other Acts administered by Council, the following information will be made publicly available:

- Register of Planning Permits
- Register of Building Permits, Occupancy Permits and Temporary Approvals
- Copies of Building Permits, plans and documentation (by application, charges will apply)
- Register of Animal Registrations
- Records of registrations, renewals and transfers in relation to food premises, including details of orders to suspend or revoke registrations of food premises
- Register of Public Roads
- Freedom of Information Part II Statement

Newsletters

Council publishes a number of e-newsletters which can be accessed and subscribed to from the Council website at <https://www.hobsonsbay.vic.gov.au/Council/Publications/eNews>

7 Access to information

- Information will be made available on the Council website, open data, at Council offices, or by request where appropriate.
- Consideration will be given to accessibility and cultural requirements in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.
- Consideration will be given to confidentiality in accordance with the *Act* and public interest test where appropriate.
- Council will respond to requests for information in alignment with the *Act* including the Public Transparency Principles, and this policy.

Information Not Available

Some Council information may not be 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* or *Freedom of Information Act 1982*.

“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 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>

The 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 or if releasing the information is likely to cause harm to any person or 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.

Public interest test

Council is not required to make publicly available information if the release would be contrary to the public interest, in accordance with the *Local Government Act 2020*. When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982*. Council may refuse to release information if it is satisfied that harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.

Information that might be withheld because it is contrary to the public interest may include:

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

Responsibilities

It is an organisation wide responsibility to promote and facilitate access to Council information in accordance with this Public Transparency Policy.

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
Senior 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
Manager Corporate Integrity	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Coordinator Governance and Information Management	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

Freedom of
Information
Officer

To facilitate the release of information outside the provisions of the *Freedom of Information Act* 1982 where possible.

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.

Non-compliance with this policy

If a member of the community 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 still not satisfied and would like to contest the decision, this can be reported to the Coordinator Governance and Information Management.

If not satisfied with Council'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

Other ways to access information

The *Freedom of Information Act* 1982 gives the community a right of access to documents that Council holds, limited only by the exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by Council. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at www.ovic.vic.gov.au.

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act* 1982. This Statement requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information it holds.

8 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.

From time to time, circumstances may require minor administrative amendments to be made to this policy. Where this does not materially alter the policy, such amendments may be made by the Chief Executive Officer. Any amendment which materially alters the policy must be approved by resolution of Council.

9 Related Documents

Council's documents:

- Governance Rules
- Community Engagement Policy
- Privacy Policy
- Open Data Access Policy

10 Related Legislation

Charter of Human Rights and Responsibilities Act 2006

Freedom of Information Act 1982 and Professional Standards

Health Records Act 2001

Local Government Act 2020

Local Government Act 1989

Privacy and Data Protection Act 2014

Equal Opportunity Act 2010

11 Further Information

For further information concerning this Policy please contact Julie Brne on Ph: 9932 1047 and/or email jbrne@hobsonsabay.vic.gov.au

12 Document Control

Policy Name	Public Transparency Policy
Object ID	POL
Responsible Directorate	Corporate Services
Responsible Officer	Manager Corporate Integrity (Legal Counsel)
Date Adopted By Council	August 2020
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Version History

Version Number	Date	Authorised by
V 1.0	TBC	Council