

COUNCILLORS' RECORDS AND DOCUMENT MANAGEMENT POLICY

Reference number: POL 043
Approval date: 17 October 2022
Policy owner: Chief Operating Officer
Next review: September 2025

The purpose of this document 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 the Council's organisational needs and accountability requirements.

Purpose

The objectives of this policy are to:

- provide a standard approach by which Councillors create, manage and arrange disposal of records relating to Council
- ensure that all records relating to Council's business are managed in accordance with the requirements of the *State Records Act 1998* (the Act)
- ensure that all records relating to Council business can be retrieved in accordance with the requirements of the *Government Information (Public Access) Act 2009*.
- Complement Councillors and Staff Interaction Policy (POL 089)

Scope

This document has been specifically developed to assist Councillors to meet their recordkeeping responsibilities. Council staff members should refer to Council's *Information Management Operating Standard* and *Records management procedures*.

Policy Provisions

State Records

Some records of Councillors are State Records

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

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.

Examples of records that are not State records

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 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.

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 service 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 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.

Principles

In all matters concerning Councillors' records, the following principles which are embodied in the State Records Act must be applied:

Principle	Discussion
1. Records must be made	A public office must ensure that records are made that document or facilitate the transaction of a business activity.
2. Records must be accurate	<p>All records made by Council must be a correct reflection of what was done, communicated or decided. An accurate record is one that can be trusted as a true representation of the transactions or events which it documents.</p> <p>Records must be made at the time of or as soon as practicable after the event or transaction to which they relate.</p>
3. Records must be authentic	<p>An authentic record is one that can be proven:</p> <ul style="list-style-type: none"> (a) to be what it claims to be, (b) to have been created or sent by the person claimed to have created or sent it, and (c) to have been created or sent at the time claimed. <p>Capturing records made or received by the public office into official recordkeeping systems helps ensure authenticity.</p>
4. Records must have integrity	<p>A record with integrity is complete and unaltered, now and in the future. It can be proven to have been managed appropriately through time.</p> <p>Records must be tamper-proof. They should be protected against unauthorised access, alteration, deletion or loss. Disposal of records without the permission of State Records is prohibited by Part 3 of the State Records Act. Permission to dispose of records normally occurs through an authorised retention and disposal authority.</p>
5. Records must be usable	<p>A record must be understandable, complete, retrievable and available through time.</p> <p>To be understood, records need to be linked to the context of their creation. Care should also be taken that the content of records is understandable. Records creators should be encouraged to make records that give a sufficiently detailed picture or account of the event to ensure the records can be understood in the future or by users who were not directly involved in the events documented. Records must be kept and be accessible as long as they are required.</p> <p>Though a record must be useable, not all records should necessarily be available to everyone. Issues of privacy, security and confidentiality must be addressed.</p>

Creation and Capture of Records

This section supports Recordkeeping principle 1: Organisations take responsibility for records and information management.

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
- inwards and outwards communication relating to their work undertaken for Council, whether hard copy, electronic or notes of a telephone conversation
- minutes of meetings and other consultations and deliberations
- oral decisions and commitments

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.

Creation of records of a confidential nature

On some occasions, Councillors are requested to keep matters relating to Council business confidential. In this case the confidential correspondence / documentation 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 6 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.

How to Create Records

Council has a number of 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. These templates will be available on the Councillors' secure website - refer Appendix D for samples.

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 (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 0 Security and confidentiality of records](#) below for information about the treatment of confidential matters.

How to capture records

This section supports Recordkeeping principles 2, and 3: Records and Information are well managed and support business

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.

Paper records

Records created or received in paper format should be forwarded to Council's Records section on at least a monthly basis. This team will register the records in Council's Corporate Records Management system.

In order to ensure integrity, authenticity and accuracy, it is important that, where possible, originals of documents are forwarded to Council.

If records are of a sensitive or confidential nature, the Councillor should alert either the General Manager or the Manager Executive Services to this fact so that appropriate security controls can be applied. They may also refer to POL 089 – Provision of information to and interaction between Councillors and staff policy.

Email and electronic records

Email and other electronic records should be forwarded to Council promptly for registration via email to council@wagga.nsw.gov.au.

If records are of a sensitive or confidential nature, the Councillor may forward to the Manager Executive Services, noting this fact in the email so that appropriate security controls can be applied.

See section 0 Security and confidentiality of records below for information about security controls for sensitive records.

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. The routine destruction of copies of records is permitted under the *State Records Act* (section 21(2)) but may only be undertaken by authorised Council officers.

Councillors should forward all duplicate copies to Council, clearly marked "Duplicate", for secure destruction.

It is important to recognise that these copies should be treated like the originals with regard to security controls applied (see section 0 Handling and storage of records).

Registration of Records by Council

Registration procedures

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

See section 0 Security and confidentiality of records for information about security controls applied to sensitive records.

Councillors' mail (including email)

Incoming mail for Councillors received at Council will be opened by the Records Team, unless it is clearly marked private and confidential. In this case the relevant contact will be advised to attend and open the letter in the secure Records area. It is the Councillor's responsibility to return any mail that is a State record and requires registration in the Council's main recordkeeping system.

Faxes to Councillors are registered in the recordkeeping system before being electronically forwarded to Councillors.

Electronic mail received through the Council's generic email address, that is addressed to Councillors is forwarded to the Councillor after being registered, if that email is considered to be a State Record. Exceptions to this are unsolicited recruitment material, items which appear to have little or no significance to the Councillor's role or Council operations, pornographic or obscene material, or spam.

Security and confidentiality of records

Building controls

Council's paper records are kept securely in Council's secure archives. These archives have security controls to protect against unauthorised access.

System controls

Council's records management software which controls both paper and electronic records restricts access according to security levels. These levels are reviewed on a regular basis.

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 0 Handling and storage of records for advice regarding Councillors' security responsibilities when storing records.

Access to records of Council

Please refer to the following policies for information relating to Councillors' access to records of Council:

- Councillors and Staff Interaction Policy (POL 089)
- Public Access to Information (POL 108)

Borrowing records of Council

Borrowing paper-based or other physical records

Under section 11(1) of the *State Records Act*, Councils are required to ensure the safe custody and proper preservation of records they are responsible for. Council therefore prohibits the borrowing of paper-based or other physical records by any person. Should a Councillor require access to such records, they may be viewed on Council premises in the presence of a Records or Information Access Officer. Photocopies of relevant pages can be made available to Councillors if required.

Some Council records are retained at the State Records regional repository at Charles Sturt University. These records can be viewed onsite at the University – Councillors are requested to contact the Director Finance to obtain direct access.

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 (see

Appendix A – Legislative requirements for recordkeeping).

Handling and storage of records

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*. Councillors should apply the storage and handling rules below to ensure records are protected.

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 Information Management Coordinator should be informed. No attempts should be made to repair the record (as some repairs can cause long term damage).

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

Storage of records

Council does not allow Councillors to store any Council files in their homes. Files must be accessed at Council in normal working hours in the presence of a Council Officer.

Business papers and other documents which are provided to Councillors as part of their Civic duties (in both hard copy and electronic form) should be managed carefully by all Councillors, with specific care taken in relation to confidential business papers and documents as these are not generally accessible by the public.

Therefore, Councillors are requested to retain Council papers only as long as the matter contained within those documents is currently under consideration. Confidential Business papers and other materials should be deleted from electronic files, and hard copies returned to the Manager Audit Risk and Governance (or their delegate) as soon as practicable after the matter in question has been heard. Ideally, confidential business papers should be returned at the completion of the Council meeting to which they relate. Should access to these papers be required at a later date, Councillors may access these documents in accordance with clause 2.5 of this policy.

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 as follows:
- Paper records must be kept in locked cupboards with the key kept secured away from the cupboards when the records are not being used
- Electronic records should be appropriately controlled with password protection on computers, virus protection and lockdown of screens when a Councillor is away from the computer

Disposal of records

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 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.

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.

The Council's Records Management staff are responsible for the disposal of State records, and all disposal must be conducted through the Records Section.

Correspondence to Councillors

- (1) Addressing correspondence to Council
 - Correspondence submitted to Council shall be addressed to the Mayor or General Manager
- (2) Outgoing Correspondence from Council shall be signed by:
 - The Mayor, or
 - The General Manager, or
 - Any employee of the Council authorised by the General Manager

For more information

For more information about the use of this policy and procedures, contact the Director Finance.

Reporting Requirements

Ownership of the policy and procedures rests with the Director Finance, who is responsible for reporting to State Records NSW regarding compliance with legislative requirements and recordkeeping standards.

Approval and Review Arrangements

This document will be formally adopted by the Council and will be reviewed and re-adopted each Council term.

Legislative Context

State Records Act 1998 – refer to Appendix A

This legislation is also supported by the following standards and guidelines:

- NSW Ombudsman, *Good Conduct and Administrative Practice: Guidelines for state and local government (3rd Edition)*, 2017
- NSW Government, Premier and Cabinet, Office of Local Government, *The Model Code of Conduct for Local Councils in NSW*, November 2015

Related Documents

- Wagga Wagga City Council Information Management Operating Standard
- Councillors and Staff Interaction Policy (POL 089)
- Code of Conduct
- Code of Meeting Practice

Recordkeeping is also supported by Australian Standards, as follows:

- Australian Standard AS ISO 15489.1: 2017 Information and documentation – Records management, Part 1: concepts and principles

Definitions

Term	Definition
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 of custody or ownership of records.
Official Business	Business relevant to performing the functions and duties of the office of Councillor, including all actions undertaken by Councillors in the pursuit of their role in Council. Official business does NOT constitute business undertaken on behalf of a Councillor's (or their family and friends') personal interests or undertaken by a Councillor on behalf of the personal interests of a member of the community.
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. <i>State Records Act 1998</i> (NSW)
Retention and Disposal Authority	Documents authorised by State Records NSW that set out appropriate retention periods for classes of records.
State Record	Any record made and kept or received and kept, by any person in the course of the exercise of official business in a public office, or for any purpose of a public office, or for the use of a public office (<i>State Records Act - section 3(1)</i>)

Revision History

Revision number	Council resolution	Council meeting date
1	Res No: 10/220.3	1 September 2010
2	E-Team	11 December 2012
3	Res No: 13/224.1	26 August 2013
4	E-Team	25 July 2017
5	Res No: 17/279	28 August 2017
6	Res No: 22/354	17 October 2022

Appendix A – Legislative requirements for recordkeeping

Environmental Planning and Assessment Act 1979 available at:

http://www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/

Evidence Act 1995 available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/ea199580/

Government Information (Public Access) Act 2009 available at:

<http://www.legislation.nsw.gov.au/#/view/act/2009/52/part3/div4/sec25>

Health Records and Information Privacy Act 2002 available at:

http://www.austlii.edu.au/au/legis/nsw/consol_act/hraipa2002370/

Local Government Act 1993 available at:

http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/

Privacy and Personal Information Protection Act 1998 available at:

http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/

State Records Act 1998 available at:

http://www.austlii.edu.au/au/legis/nsw/consol_act/sra1998156/

Appendix B – Best practice guidance for recordkeeping

Australian Standard AS ISO 15489.1: 2017 Information and documentation – Records management, Part 1: concepts and principles

NSW Ombudsman, Good Conduct and Administrative Practice: Guidelines for state and local government (3rd Edition), 2017

NSW Government, Premier and Cabinet, Office of Local Government, The Model Code of Conduct for Local Councils in NSW, November 2015.

Appendix C – Sample templates for Recordkeeping



COUNCILLOR'S FILE NOTE

DATE:	
CONTACT DETAILS: (If required)	
SUBJECT:	



COUNCILLOR'S MEMORANDUM

TO:	
CC:	
FROM:	
DATE:	19 May, 2010
SUBJECT:	
