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Shire of York
Freedom of Information Statement



SHIRE OF YORK
FREEDOM OF INFORMATION
STATEMENT

2018/2019

Published ~~by Council~~ in accordance with
the Freedom of Information Act
1992

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INTRODUCTION

This Information Statement is published by the Shire of York in accordance with the requirements of Part 5 of the *Freedom of Information Act 1992 (the FOI Act)*.

The purpose of this document is to provide information to the community about the structure and functions of the local government, how decisions made by the Council affect the community and how members of the community can participate in the decision making process and in the formulation of policies of the local government.

This statement describes the kinds of documents that are held by the Shire and the ways access may be given to those documents.

A review of the Information Statement will take place every twelve months.

FREEDOM OF INFORMATION LEGISLATION

Further information about Freedom of Information can be found at the Office of the Freedom of Information Commissioner's website at: www.foi.wa.gov.au. A copy of the *Freedom of Information Act 1992* and associated regulations can also be viewed here.

This information statement can also be accessed through the Shire of York's website at www.york.wa.gov.au.

VISION STATEMENT

Shire of York Mission Statement - Building on our history to create our future.

Shire of York Vision: The Rural Gateway Our

Shire will be:

- A place to visit, work, play and rest;
- A place of vibrancy and energy, but one of tranquillity and safety;
- A place of growth, where local businesses find opportunities and thrive;
- A place of history and cultural interests, where past history is valued, building a sense of permanency and pride;
- A place of community, where lifestyle choices are important and where community matters.

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THE COUNCIL AND COUNCILLORS

Council is the governing body of the local government and is made up of seven Elected Members (Councillors). The role of the Council is defined in the *Local Government Act 1995*:

- To direct and control the local government's affairs; and
- To be responsible for the performance of the local governments functions.

Generally, Councillors do not have an authority to act or make decisions as individuals. They are members of an elected body that makes decisions on behalf of the local government through a formal meeting process.

The role of each Councillor is to:

- Represent the interests of electors, ratepayers and residents of the district.
- Provide leadership and guidance to the community in the district.
- Facilitate communication between the community and the Council.
- Participate in the local government's decision making processes at Council meetings; and
- Perform such other functions as are given to a Councillor by the *Local Government Act 1995* or any other written law.

Your elected Councillors are ratepayers or residents who have volunteered to work for the community and provide an avenue for public participation and input on important decisions that affect the way you live.

Local Government elections take place every second year on the third Saturday in October, with approximately half the Council retiring at each election. Retiring Council members are eligible for re-election. After each election, Elected Members select a Shire President and Deputy Shire President amongst themselves.

More information relating to your elected members can be found on the Shire of York website at www.york.wa.gov.au.

OFFICE OF THE CHIEF EXECUTIVE

Each local government employs a Chief Executive Officer (CEO) and staff to advise Council members on matters under discussion, administer the day to day operations of the local government, carry out the policies of Council and implement its decisions.

The CEO is responsible to Council for the implementation of Council policies, decisions and budgeted works, the provision of accurate and timely advice to Council and the efficient administration of the Shire.

PUBLIC PARTICIPATION

Council consults the community to seek its views on a number of projects in which it is involved in. Council seek these views in a number of ways including advertising in local papers, calling public meetings and seeking responses to surveys and questionnaires.

Public Notices & Advertising

The *Local Government Act 1995* and other legislation may require the Shire to provide notice of its intention to take a particular course of action or decision. The Shire may also advertise certain proposed courses of action or decisions in order to provide the community with an opportunity to make submissions. These notices and advertisements generally appear within *The West Australian* or *York & District Community Matters* or other local newspapers within the district. Notices are also placed on the Shire of York website.

Council Agendas & Minutes

To facilitate public participation and awareness of Council meetings, the Shire of York advertises the dates, times and places of meetings that are open to members of the public. The advertisements are placed in the local newspapers, on Council's website and on the notice board of the Shire Office.

Agendas

Agendas relating to any Council meetings are made available for public inspection at the Shire Office, on Council's website and at the same time that they are issued to members of Council, which is on the Thursday prior to the Agenda Settlement Briefing.

In certain circumstances, members of the public are not entitled to inspect notice papers or agendas which in the Chief Executive Officer's opinion, relate to a meeting or part of a meeting which is likely to be closed to members of the public in accordance with Section 5.23(2) of the *Local Government Act 1995*.

Minutes

Council meeting minutes are available on the Shire's website and for inspection at the Shire Office within ten (10) business days after the meeting.

Council Meetings

An Agenda Briefing for Councillors is held on the third (3rd) Monday of each month at 5.00pm.

The Ordinary Council meeting takes place on the fourth (4th) Monday of each month at 5.00pm. At this meeting, all Councillors attend. They examine the recommendations

made by Council's staff, debate and generally approve the recommendations before them.

Council Meetings are generally open to the public and are conducted in accordance with the Shire of York *Local Government (Council Meetings) Local Law 2016*.

Current Shire Committees

Local governments may appoint committees to share in the decision making workload as well as to utilise expertise effectively. Committees include Council members, staff from the local government and can also include members of the public.

Committees - (within the Shire)

- Audit Committee
- Access & Inclusion Advisory Committee

Other Committees – external

- [Avon Midland Country Zone of WALGA](#)
- [Avon Regional Organisation of Councils \(AROC\)](#)
- [Avon Regional Roads Sub-Group](#)
- [Avon Tourism Association](#)
- [Development Assessment Panel](#)
- [Local Emergency Management Committee \(LEMAC\)](#)
- [York Bypass / Heavy Haulage Project Working Group](#)
- [York Community Resource Centre](#)
- [York District High School Board](#)
- [York Health Advisory Group](#)
- [York Quairading Road Working Group](#)

Local Government (Council Meetings) Local Law 2016

This Local Law relates to the way in which Council and committee meetings are run, particularly the conduct of proceedings of the business of the Council and committee meetings. In governing the proceedings of a meeting, standing orders specifically detail issues such as the order of business, conduct of meetings with regard to determinations by the chairperson, rules of debate, voting, motions and amendments to motions and various miscellaneous matters.

A copy of the comprehensive Local Law relating to Council Meetings is available for perusal or purchase at the Shire Office. It can also be found on the [Shire Website](#).

Delegated Authority

The Council of a local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties. For this to occur

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<#>Avon Regional Roads Sub Group ¶
<#>York Community Resource Centre ¶
<#>Avon Midland Ward of WA Local Government Association ¶
<#>Rural Road Advisory Group ¶
<#>Emergency Services Recovery Coordinator ¶

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<#>Avon Tourism ¶
<#>Avon Regional Organisation of Councils (AROC) ¶

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however, an absolute majority decision is required. There are some limits on powers or duties that can be delegated to the Chief Executive Officer. Comprehensive detail describing such limitations can be found in Section 5.43 of the *Local Government Act 1995*.

THE LOCAL GOVERNMENT ACT

Local Government's power is derived from legislation.

The *Local Government Act 1995* provides for a system of local government by creating a constitution for elected local government in the State, describing the functions of local governments, providing for the conduct of elections and providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.

Other important statutes include the *Bush Fires Act*, the *Cemeteries Act*, the *Dog Act*, the *Cat Act* and the *Environmental Protection Act*.

Local governments also derive powers from other Acts. Of these, the most important are the *Health Act*, which vests wide ranging powers in local governments to ensure the health of each community is safeguarded, and the *Town Planning and Development Act*, which gives local governments the power to prepare local planning schemes and ensure orderly development.

POLICIES OF THE LOCAL GOVERNMENT

In order to provide guidance for the officers of the local government, the Council adopts policies that define the structure under which the local government operates.

A manual of the policies of the local government are available for public perusal on request at the Shire Office and also on the Shire of York Website.

LOCAL GOVERNMENT LOCAL LAWS

The powers of local governments to provide services and facilities and make local laws are derived from legislation passed in State Parliament. The principal Act from which local governments gain power is the *Local Government Act 1995*.

Local Laws were previously called By-laws. The terminology change was implemented by the *Local Government Act 1995*. The terminology change does not in any way change the intent of the original By-law.

There are two types of Local Laws that are the 'law' in any local government area. The first type are local laws made by the Governor which may be applicable to a single local government or even to every local government in the State. There are a few such local laws that are statewide applying to this local government and these have been identified as such in their headings.

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The second type of local law is adopted by this local government. These local laws apply only to ratepayers and residents of the Shire of York. The power to make a local law and the extent to which it may be applied must be clearly set out in an Act of Parliament. This is sometimes described as the "Head of Power". Several different Acts give such powers with perhaps the most important to Council, being the *Local Government Act*, the *Health Act* and the *Bush Fires Act*.

~~A comprehensive~~ Local Laws ~~are~~ available for perusal on request at the Shire Office and on the Shire of York Website.

PUBLICATONS HELD BY THE SHIRE OF YORK

Where the Shire of York is required or has decided to make certain documents available to the public, then those documents will be available in their most recent format at the Shire of York Website <http://www.york.wa.gov.au>.

The Shire of York will ensure that as much information as possible is made available through the Shire of York website; alternatively, these documents can be made available by attending the Shire of York Administration Office in person or telephoning 9641 2233.

Charges may apply for hard copies of certain documents as per the Council's adopted Fees and Charges.

~~The Shire holds a variety of documents, some of which are accessible without having to make an access application under the FOI Act.~~

~~It is the policy of the Shire of York to provide access to documents outside the Freedom of Information process wherever possible.~~

DOCUMENTS AVAILABLE OUTSIDE THE FOI ACT

~~The following documents are available to the public outside the Freedom of Information Act. The Shire of York, as a local government is required to make certain documents available to the public.~~

~~These documents are available for public inspection at the Shire of York Administration Centre or they can also be found on the Shire of York website at www.york.wa.gov.au.~~

PUBLICATIONS AVAILABLE

Document Description	Inspection Only	Website
Age Friendly Community Plan - 2017		X
Agenda & Minutes (excluding sections closed to the public)		X
Annual Budgets		X
Annual Reports		X

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Access and Inclusion Plan		X
Code of Conduct – (located in the policy manual)		X
Corporate Business Plan – 2018 to 2022		X
Delegated Authority Register		X
Disability Access & Inclusion Plan – 2018 to 2023		X
Fees and Charges 2018/2019		
Information Statement		X
Local Laws Manual		X
Long Term Financial Plan – 2016 to 2026		
News & Events – Media Released		X
Policy Manual		X
Record Keeping Plan - 2015		X
Registers – Gifts & Travel		X
Register of Financial Interest	X	
Register – Tender	X	
Strategic Community Plan – 2018 to 2028		X

[Documents are available in alternative formats upon request.](#)

- ~~[Agenda and Minutes \(excluding sections closed to the public\)](#)~~
- ~~[Annual Reports](#)~~
- ~~[Budgets – Statutory](#)~~
- ~~[Code of Conduct](#)~~
- ~~[Community Information Brochures](#)~~
- ~~[Corporate Plans & Informing Documents](#)~~
- ~~[Delegations Manual](#)~~
- ~~[Disability Access & Inclusion Plan \(DAIP\)](#)~~
- ~~[Financial Statements](#)~~
- ~~[Forward Capital Works Plan](#)~~
- ~~[Freedom of Information Statement](#)~~
- ~~[Integrated Workforce Plan](#)~~
- ~~[Local Laws Manual](#)~~
- ~~[Local Planning Strategy](#)~~
- ~~[Long Term Financial Plan](#)~~
- ~~[Policy Manual](#)~~
- ~~[Record Keeping Plan](#)~~
- ~~[Registers as required under the Local Government Act 1995](#)~~
- ~~[Road Documents](#)~~
- ~~[Schedule of Fees and Charges](#)~~
- ~~[Sponsorship Application](#)~~
- ~~[Tender Register](#)~~
- ~~[Works Programme](#)~~

Requests for information of a general nature may be made in writing to the Chief Executive Officer. ~~Requests for information that is not otherwise listed as available in this statement other than the above~~ will be considered in accordance with the *Freedom of Information (FOI) Act 1992*.

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APPLYING FOR DOCUMENTS UNDER THE FREEDOM OF INFORMATION ACT

The *Freedom of Information Act 1992* gives people the right of access to documents held by Ministers, State Government departments, Local Governments and other statutory authorities subject to some limitations. These bodies are called agencies.

People have the right to apply for access to the documents of an agency or a local government. This right is not affected by any reasons the person has for wishing to obtain access or the local government's belief as to what the reasons are for wishing to obtain access.

However, you cannot apply to access documents under the FOI Act if those documents are available for purchase or free distribution to the public or available for inspection under an enactment.

The FOI Act also provides that certain documents or information is exempt. The exemptions in the FOI Act protect some documents from disclosure because their release would have an adverse effect on the private and business interests of individuals, or would hinder the proper functioning of government.

Sometimes access to only part of a document will be provided if it contains information considered to be exempt.

REQUIREMENTS FOR AN ACCESS APPLICATION UNDER THE FREEDOM OF INFORMATION ACT

Application forms are available at the Shire Office. The use of application forms is not mandatory, however access applications must:

- be in writing;
- give an Australian address for which notices can be sent;
- give enough information so that the documents requested can be identified; and

An application fee of \$30 is payable if the applicant is seeking more than their own personal information.

Applications may be lodged at the Shire Offices or in person or mailed direct to the:

FOI Coordinator
Shire of York
PO Box 22
YORK WA 6302

Document Definition

A document includes any record or part of a record, and any copy or reproduction. It therefore covers files, computer printouts, maps, plans, photographs, tape recording, films, video tapes or electronically stored information.

Notice of Decision

Applicants will be given a written "Notice of Decision" by the Decision Maker, of the Shire of York. The "Notice of Decision" will provide reasons if you are refused access or only given partial access to the document, which you requested. Your rights of review will be included in the "Notice of Decision".

Fees & Charges

A scale of fees and charges is set under the *Freedom of Information Regulations 1993*. Apart from the application fee for non-personal information, all charges are discretionary, meaning that it is left to the Shire's discretion whether a charge will apply or not. Straightforward applications usually incur only the application fee. The charges are as follows:

Application - personal information about the applicant	Free of charge
Application Fee non-personal information	\$30
Charge for time taken by staff dealing with the application	\$30/hour or pro-rata
Charge for access time supervised by staff	\$30/hour or pro-rata
Charge for photocopying - staff time	\$30/hour or pro-rata
Charge for photocopying - per copy	\$0.20
Charge for transcribing from tape, film or computer	\$30/hour or pro-rata
Charge for duplicating a tape, file or computer information	At cost
Charge for delivery, packaging and postage	At cost
Deposits	
Advanced deposit may be required of the estimated charges	25%

An estimate of charges will be provided if the cost is expected to exceed \$25.00.

[Regulation 3 makes provision for a mandatory reduction in charges of 25% if an applicant is considered to be "impecunious" or is the holder of certain types of concession cards.](#)

No charges apply for searching, identifying or collating the documents.

Access Arrangements

Access to documents can be granted by way of inspection, a copy of a document, a copy of an audio or video tape, a computer disk, a transcript of a recorded, shorthand or encoded document from which words can be reproduced.

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Appeals for review

If you are not satisfied with the decision made in relation to your request you can request a review of the Shire's decision.

Internal Review by the Shire of York

If you are dissatisfied with the Shire's decision, you can seek an internal review of the decision from the Shire. If the initial decision was made by the CEO you do not have to apply for an internal review but you can seek an external review.

An internal review must be lodged with the agency within 30 days after being given a written notice of decision, and must:

- Be in writing
- Provide particulars of the decision to be reviewed, and
- Give an address in Australia

There is no lodgement fee for an application for internal review and there are no charges for dealing with an internal review request.

The Shire is required to provide you with a notice of its internal review decision within 15 days of you lodging your application for review.

External Review by the Information Commissioner

If after an internal review has been completed or if the Chief Executive Officer was the issuing officer of the Notice of Decision and you are still dissatisfied with the Shire's decision, you can make a complaint to the Information Commissioner.

The complaint must be made in writing to the Information Commissioner and you must supply an address to which notices may be sent to you.

You must also give particulars of the decision you want reviewed and attach a copy of the Shire's notice decision on internal review or the decision of the Chief Executive Officer if internal review is not available.

If you are seeking access to documents or an amendment of personal information, your complaint must be lodged within 60 days after being given written notice of the Shire's

decision. If you are a third party to an application for access to personal or commercial or business information concerning yourself, your complaint must be lodged within 30 days after being given written notice of the Shire's decision. There is no charge for review by the Information Commissioner.

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<#>The lodgment must give details of the decision you wish to have reviewed and give an address in Australia to which notices can be sent ¶

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Further details and brochures can be obtained at the Shire Office.

The Information Commissioner can be contacted at the following:

The Office of the Information Commissioner
Albert Facey House
469 Wellington Street
PERTH WA 6000
Telephone: 6551 7888

Country WA Callers: 1800 621 244 (toll free)
Facsimile: 6551 7889

Email: info@foi.wa.gov.au
Internet: www.foi.wa.gov.au

Appeals to the Supreme Court

Section 85 of the FOI Act provides that any party to a complaint may appeal to the Supreme Court on any question of law arising out of a decision of the Information Commissioner, except for a decision as to the deferral of access to a document, the charges to be imposed for dealing with an access application and the payment of a deposit on account of charges.

Amending Personal Information

The right to amend personal information held by the Shire ensures information does not unfairly harm the person referred to, misrepresent facts about them or give a misleading impression. An application can be made to the Executive Manager Corporate & Community Services or the Chief Executive Officer to correct or amend any documents containing an individual's personal information.

The application must be in writing, providing details and if necessary, documentation to support claims that the information the applicant seeks to have amended is inaccurate, incomplete, out of date or misleading.

The Shire will inform the applicant of its decision and its reasons and will advise the applicant of their right of review should they be dissatisfied with the Shire's decision.