



**SHIRE OF YORK**  
**FREEDOM OF INFORMATION**  
**STATEMENT**  
**2020/2021**

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

This document is available in alternative formats upon request

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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](http://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](http://www.york.wa.gov.au).

## **THE COMMUNITY'S VISION AND PRIORITIES**

### COMMUNITY VISION

We are WA's first inland community

The treasured Avon river is at our heart

The Shire is easy to get around for everyone

Our tourism and agricultural based economy is thriving, providing jobs for all and a future for our young people

The town centre is renowned for its iconic heritage and hosts festivals and events that draw thousands of visitors per year

The natural environment replenishes the soul and we embrace the culture and history of the Ballardong people as an integral part of life and the future

Shire of York Community Aspirations:

- Theme 1: The Place to Be  
*Goal:* To be a close-knit community, full of life, in a welcoming and accessible place for all.

- Theme 2: Driving the York Economy Forward  
*Goal:* To have a vibrant, diverse and prosperous local economy which creates local jobs, business opportunities and a positive image for the Shire.
- Theme 3: A Leader in Sustainable Environment  
*Goal:* To be a place which is renowned for the quality of its natural environment, the astounding beauty of the landscape, and the care taken by the community.
- Theme 4: Build for Lifestyle and Resilience  
*Goal:* To have a built environment which supports community, economy and the environment, respects the past and creates a resilient future.
- Theme 5: Strong Leadership and Governance  
*Goal:* To have effective and responsible leadership and governance, where a sense of collective purpose and shared direction combine to work together.

## 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 government's 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.qov.au](http://www.york.wa.qov.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 and social media pages

#### **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 also on the public notice boards located at the Post Office and 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 (sometimes Friday) 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 second last Tuesday of each month at 5.00pm and is open to the public.

The Ordinary Council meeting takes place on the last Tuesday 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 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.

### **Council Committees - (within the Shire)**

- Access & Inclusion Advisory Committee
- Audit & Risk Committee
- Local Emergency Management Committee (LEMAC)
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### **Council Committees – Other**

- Council Reference / Working Group
- York Honours Reference Group

### **Council Representation – External Committees**

Avon Midland Country Zone of WA Local Government Association  
Avon Regional Roads Sub-Group  
Avon Regional Organisation of Councils (AROC)  
Development Assessment Panel  
Earthquake Building Mitigation Project Working Group  
Paint York REaD  
River Conservation Society  
Rural Water Council  
York Community Resource Centre  
York District High School Board  
York Health Advisory 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 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.

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 manual is available for perusal on request at the Shire Office and on the Shire of York Website.

## PUBLICATONS

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.

**PUBLICATIONS AVAILABLE**

Document Description	Inspection Only	Website
Aged Friendly Community Plan		x
Agenda & Minutes (excluding sections closed to the public)		x
Annual Budgets		x
Annual Reports		x
Business Plans		x
Code of Conduct – (located in the Policy Manual)		x
Committee Booklet		x
Community Scorecards		x
Complaints Register (minor breach)		x
Corporate Business Plan		x
Delegated Authority Register		x
Disability Access & Inclusion Plan		x
Fees and Charges		x
Freedom of Information Statement		x
Gift & Contributions to Travel Register		x
Local Laws Manual		x
Long Term Financial Plan		x
News & Events – Media Released		x
Policy Manual		x
Record Keeping Plan		x
Registers – Gifts & Travel		x
Register of Financial Interest	x	
Register – Tender	x	
Strategic Community Plan		x

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 will be considered in accordance with the *Freedom of Information (FOI) Act 1992*.

**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
<b>Deposits</b>	
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.

For financially disadvantaged applicants, or those issued with prescribed pensioner concession cards, the charges payable are reduced by 25%.

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.

### **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 cannot apply for an internal review but you can seek an external review with the Office of the Information Commissioner

To apply for an internal review:

- You must submit a letter or complete an "internal review application form" and lodge it with the Shire within 30 days after being given the Shire's notice of decision
- The lodgement must give details of the decision you wish to have reviewed and give an address in Australia to which notices can be sent
- 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.

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](mailto:info@foi.wa.gov.au)  
Internet: [www.foi.wa.gov.au](http://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.