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## GOVERNANCE POLICIES

### Record Keeping



Policy Number:	G1
Relevant Delegation:	Not Applicable
Adoption Details:	28 January 2016
Last Review Details:	25 November 2019

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#### **POLICY OBJECTIVE:**

To provide Councillors and employees with clear guidelines on how they will comply with their responsibilities under the State Records Act 2000 and to establish a Council wide consistency in the management of records and a framework for the creation, capture, access, management, storage and disposal of records of all agency functions, irrespective of format within the Shire of York.

#### **POLICY SCOPE:**

This policy applies to all Shire of York Councillors, employees, consultants, contractors, casual staff and volunteers and relates to discharge of responsibilities as set out by the State Records Act 2000 and the State Records Commission. The policy applies regardless of the format (e.g. written or electronic) and where it was received.

#### **POLICY STATEMENT:**

#### **INTRODUCTION**

Records and documents belonging to the Shire of York are important assets and therefore must be managed properly for business purposes and compliance with the *State Records Act 2000*. In accordance with requirements of the Act, the Shire of York has developed a Record Keeping Plan as an instrument of accountability. The Record Keeping Plan has been approved by the Council and has been implemented to fulfil the Shire of York's compliance obligations and to benefit the Shire of York's business information needs.

#### **COUNCILLORS**

The *State Records Act 2000* identifies certain records held by Councillors as State records and requires that these be protected and preserved. The State Records Commission sets out guidelines to assist local government and Councillors to identify which records must be retained. This can include electronic as well as written records. The Commission's policy regarding the records of local government elected members requires the retention of records of the:

*"...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business."*

Councillors may hold records which must be made available in relation to Freedom of Information requests. Just as direct Council held records must be searched for information relevant to a Freedom of Information request, Councillor records, including computer records, must also be available for searching.

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It is important that Councillors are aware of what must be retained and made available in order to comply with the intent and provisions of the State Records Act 2000 and the policies of the State Records Commission.

This policy should also be read in conjunction with the Policy G 2.2 Community Access to Information and G 1.1. Councillors: Code of Conduct.

## **PRINCIPLES**

- (a) Retention of records is key to ensuring the transparency and accountability of local government decision-making.
- (b) Retention of records is an important tool in protecting and retaining the heritage and memory of local communities.
- (c) Ensuring the availability of information in a timely way is an important part of the democratic process.
- (d) A conservative approach should be taken to retention of records: i.e. if in doubt retain the records.

## **PROVISIONS**

- 1.1 Councillors must keep records of communications or transactions, which convey information relating to local government business or functions. These records should be forwarded regularly to the Shire of York administration for capture into the official recordkeeping system.
  - 1.2 The following records must be created and retained and forwarded to the Shire of York administration on a regular basis and at the retirement of a sitting member:
    - (a) Communications from residents and ratepayers such as:
      - complaints and compliments
      - correspondence concerning corporate matters
      - submissions, petitions and lobbying
      - information on Council's interests relating to local government business activity and functions
    - (b) Telephone, meetings and other verbal communications between an elected member and another party, regarding local government projects or business activities
    - (c) Work diaries – containing information that may be significant to the conduct of the elected member on behalf of local government,
    - (d) Presentations and speeches delivered as part of an elected member's official duties.
  - 1.3 Councillors must sign an annual declaration that they have forwarded required records to the Shire of York's Records Officer for retention or storage. (Note: this declaration is not a mandatory requirement under the State Records Act but exists to remind Councillors of their compliance responsibilities and to assist the Chief Executive Officer (CEO) discharging requirements under Section 17 *Local Government (Audit) Regulations 1996*.
  - 1.4 Councillors must make available records held relevant to a Freedom of Information request in a timely way that ensures Council compliance with the statutory response times.
  - 1.5 Councillors should consult the CEO if they need assistance in deciding whether a record should be retained.
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1.6 Destruction of the above records or failure to make them available for storage or Freedom of Information requests will place an Elected Member in contravention of statutory requirements.

1.7 The following records do not need to be forwarded to the Shire of York for retention:

- duplicate (unmarked) copies – of Council meeting agenda, minutes & papers. Note: any such document with notations or marked in any way is a record under the *State Records Act 2000*.
- draft documents or working papers which are already captured in Shire of York records
- publications – such as newsletters, reports, circulars and journals.
- invitations – to community events where an elected member is not representing Council or the local government.
- telephone, meetings & other verbal conversations which:
  - convey routine information only; or
  - do not relate to local government business or functions.
- electioneering – or party political information.
- personal records – not related to an elected member’s official duties.

Note: if any of these documents have been marked or contain notations they are considered to be records required for retention.

## EMPLOYEES, CONSULTANTS, CONTRACTORS, CASUAL STAFF AND VOLUNTEERS

### PRINCIPLES

- (a) All employees are responsible and accountable for keeping accurate and appropriate records of their activities and must do so in accordance with this policy.
- (b) This responsibility includes appropriately securing records to protect the commercial confidentiality, privacy and sensitivity of records and in using and sharing them internally and externally.
- (c) All corporate records and documents belonging to the Shire of York must not be shared or distributed to external persons or organisations unless authorised to do so by the Administration and Governance Coordinator, Executive Manager or Chief Executive Officer.
- (d) All records must be stored, physically or electronically, in the Shire of York’s Records Management System so that they can be classified, secured, accessible, published as well as retained in one central location and in accordance with this Policy and the Shire of York’s approved Disposal Authority.

### PROVISIONS

#### 1. Capture of Records

1.1 All Employees are responsible to ensure records they create, send and receive in the course of their work for the Shire of York are captured, regardless of the format. This includes but is no limited to:

- Authorisations
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- Contracts
  - Emails
  - File Notes
  - Internal Correspondence
  - Legal Documents
  - Letters (Signed)
  - Memos
  - Minutes of Meetings eg Events Committee Minutes
  - Reports
  - Spreadsheets

1.2 Employees must sign an annual declaration that they have registered required records in the Shire of York's Records Management Systems for retention or storage. (Note: this declaration is not a mandatory requirement under the State Records Act 2000 but exists to remind Employees of their compliance responsibilities and to assist the Shire of York discharging requirements under Section 17 Local Government (Audit) Regulations.

## **2. Retention and Disposal of Records**

- 2.1 A record must be retained, even if the legal retention period has expired, if it is required for existing or anticipated legal matters, including Freedom of Information applications, until it is no longer required.
- 2.2 Any records scheduled for disposal are to be identified and presented by the Records Officer for review by the responsible department officer/s. Records for disposal will then be formally authorised by the Administration and Governance Coordinator, Executive Manager Corporate and Community Services and the Chief Executive Officer.
- 2.3 Ephemeral records and documents are to be destroyed once reference to them ceases.
- 2.4 The Records Officer will arrange for the records to be destroyed by appropriate means.
- 2.5 Records which are disposed of will be recorded in a systematic manner by the Records Officer.

## **3. Drafts and Revisions**

- 3.1 Drafts or revisions recording the progress of changes to official policy and management decisions should be fully documented as these can provide evidence of the processes involved or contain significantly more information than the final draft or revision.
- 3.2 A draft or revision of a document is a record under this policy if the draft or revision conveys new information or substantially different information from the previous draft or revision then the draft or revision must be retained as a record. If changes to any draft or revision are of a minor cosmetic nature, it is not necessary to keep a copy of the previous revision.
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## **PENALTIES:**

Under the *State Records Act 2000* Part 10 it is an offence to:

- (a) Not keep a record in accordance with the records keeping plan of the organisation.
- (b) Transfer or offer to transfer a record to a person who is not entitled to possession of the records.
- (c) Destroy a record without appropriate authorisation in accordance with the record keeping plan.
- (d) Destroy a record while the record is subject of a notice to deliver or under court action to recover.

Current penalty under the *State Records Act 2000* is \$10,000. Officers and/or Councillors and/or the Shire of York may also be penalised under other legislation such as the *Evidence Act 1906* or *Freedom of Information Act*.

## **KEY TERMS/DEFINITIONS:**

In accordance with the *State Records Act 2000* a **record** is defined as:

*“any record of information however recorded and includes —*

- (a) anything on which there is writing or Braille.*
- (b) a map, plan, diagram or graph.*
- (c) a drawing, pictorial or graphic work, or photograph.*
- (d) anything on which there are figures, marks, perforations, or symbols, having a meaning for persons qualified to interpret them.*
- (e) anything from which images, sounds or writings can be reproduced with or without the aid of anything else.*
- (f) anything on which information has been stored or recorded, either mechanically, magnetically, or electronically.”*

Under the *State Records Act 2000* a **state record** is defined as:

- “(a) a parliamentary record, or*
- (b) a government record.”*

**Drafts and revisions:** In creating or preparing records, one or more significant drafts or revisions may have been created until the record is finalised and accepted as final.

**Disposal authority:** The General Disposal Authority for Local Governments, approved by the State Records Office is a legal document adopted by the Shire of York for the retention and disposal requirements of records. It requires the Shire of York to retain and dispose of corporate records and documents, electronic or hard copy, in accordance with specified retention and disposal periods.

**Ephemeral records:** Ephemeral records are those which have only short-term value to Shire of York with little or no ongoing administrative, fiscal, legal, evidential, or historical value. An ephemeral document includes:

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- (a) duplicates or extract copies of records, documents, circulars, forms etc. Including reports printed from databases for reference purposes as the database contains the official corporate record or document.
  - (b) information material including price lists, catalogues, advertising material, brochures etc produced by other organisations.
  - (c) messages in the form of voice mail, electronic mail, telephone messages or post-it notes when the message does not relate to the business functions of the Shire of York.
  - (d) transitory messages giving minor instructions and of a routine instructional nature that are used to further some activity in either a paper-based or electronic format e.g. correcting typing errors, requesting file creation or retrieval, filing a letter, formatting documents, duplicating
  - (e) background notes and reference material used to prepare or complete other documents (other than policy documents and documents relating to significant events in regard to core functions).
  - (f) Excess copies or duplicates of documents that have been captured in the record keeping system already may be disposed of.

If there is any doubt as to whether a record or document should be retained or destroyed, you should retain the record or document.

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Responsible Officer: Executive Manager Corporate and Community Services  
 Contact Officer: Executive Manager Corporate and Community Services  
 Relevant Legislation: State Records Act 2000  
 Local Government (Model Code of Conduct) Regulations 2021

Review History:

<b>Date Review Adopted:</b>	<b>Resolution Number</b>
Adopted – 28 January 2016	
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