

Policy



STRATEGIC

CONFIDENTIALITY

Head of Power

Local Government Act 2009

Key Supporting Council Document

Lockyer Valley Regional Council Corporate Plan (2022-2027) –
Lockyer Leadership and Council:

- Compliant with relevant legislation.

Definitions

<i>Commercial in Confidence</i>	generally, means sensitive commercial information that an individual, entity or Council shares with another party in confidence and which may cause harm if revealed. Therefore, the party receiving this information is obligated not to further disclose or use that information without consent or unless required by law.
<i>Councillor</i>	a councillor of Lockyer Valley Regional Council past or present and includes the Mayor.
<i>Disclosure</i>	the release of documents or information about a person, entity or Council.
<i>Employee</i>	all employees of Council, whether employed on a permanent, temporary or part-time basis and includes volunteers, contractors and their employees.
<i>Information Privacy Principles (IPP's)</i>	the information privacy principles set out in Schedule 3 of the <i>Information Privacy Act 2009</i> .
<i>Personal Information</i>	as defined in section 12 of the <i>Information Privacy Act 2009</i> , is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Policy Objective

This policy has been established to assist Councillors and Council employees in determining what might be considered confidential information and how this information is to be handled in accordance with the *Local Government Act 2009* and other legislation.

Policy Statement

Councillors and Council employees must use Council information in a way that promotes and maintains the public's trust and confidence in the integrity of the local government and complies with the use of information as stated in the *Local Government Act 2009*.

Council operates in an environment of public accountability in which it seeks to inform the public of issues under consideration and the nature of decisions made by Council. Therefore, information should ordinarily be released to the public unless there are compelling reasons which indicate that this is not in the public interest.

It is accepted that Councillors and Council employees will be in receipt of Confidential Information. It is Council's responsibility to ensure that such information is treated confidentially, so as not to harm, prejudice or compromise the interests of Council or any individual or organisation or enable any individual or organisation to gain a financial advantage.

This policy applies to all councillors, council staff, contractors and others that act on Council's behalf to ensure they work in accordance with the principles set out in this policy and relevant legislative requirements.

Principles

The following principles apply to the use and disclosure of Confidential Information:

- Personal Information collected by Council must comply with the Information Privacy Principles and all relevant Council policies.
- Confidential Information must not be released unless approved by the Chief Executive Officer or Council resolution or authorised by law.
- Councillors and Employees must exercise due care when dealing with Confidential Information.
- Councillors and Employees must only access Confidential Information for a purpose directly related to their role.
- There are a number of laws which require Council to make available information to members of the public and other government agencies. Council will fully comply with its obligations under those laws.
- Council will designate in this policy particularly information or classes of information as confidential to clarify that the information must be dealt with in a certain way.
- If there are any doubts as to whether the information is considered to be confidential, the Councillor or Employee is to act on the assumption that it is confidential until the issue is resolved by the Chief Executive Officer.

Confidential Information

The following types of information shall be deemed to be Confidential Information to Council and shall remain so unless otherwise authorised by law or the originator:

- Commercial in confidence information — including where the release of information would affect a company or business's competitive advantage; this is particularly relevant in a competitive tender situation.
- Information derived from government departments or ministers that has been classified as confidential by the department or a minister.
- Personal Information, including information of a personal nature or about the personal affairs of Councillors or Employees.
- Information to inform strategic decision-making processes of Council, such as a property disposal or acquisition process, where release of the information may prejudice Council;
- Financial and legal analysis where the disclosure of that information may prejudice Council or someone else;
- Information not owned or controlled by Council;
- Information that could result in any action being taken in relation to defamation;
- Information involving legal advice to Council, a commercial settlement or a legal issue or a matter before the courts;
- Information that is expressly given to Councillors in confidence;
- Information about:
 - the appointment, dismissal or discipline of Employees;
 - industrial matters affecting Employees;
 - Council's budget and budget processes;
 - rating concessions;
 - contracts proposed to be made by Council;
 - starting or defending legal proceedings involving Council;
 - any action to be taken by Council under the *Planning Act 2016*, including deciding applications made to it under that Act.
- Such other information identified by the Chief Executive Officer as confidential from time to time.

It is acknowledged that some of the above types of information may need to be disclosed from time to time for legal proceedings or in accordance with the *Right to Information Act 2009* or *Information Privacy Act 2009*.

Breach of Policy

A breach of this Policy may constitute an offence under section 171 or 200 of the *Local Government Act 2009* for councillors and employees respectively. It may also constitute a breach of the Employee Code of Conduct or the Code of Conduct for Councillors in Queensland.

Any inadvertent release of Confidential Information to an unintended recipient or identification of a breach of this policy should be reported to the Chief Executive Officer immediately upon detection.

Any allegations of a breach of this policy should also be made to the Chief Executive Officer. Where the allegation involves a breach by:

- an Employee, the Chief Executive Officer will deal with the allegation through Council's complaints management system. This could also result in disciplinary action.

- a Councillor, the Chief Executive Officer will deal with the allegation in accordance with Chapter 5A Part 3 of the *Local Government Act 2009* and refer it to the Office of the Independent Assessor for investigation and action, or investigate it in accordance with Council’s Investigations Policy, as appropriate.

Human Rights

Council is committed to respecting, protecting and promoting human rights. Council has an obligation under the *Human Rights Act 2019* to give proper consideration to human rights when making a decision, and to act and make decisions in a way that is compatible with human rights. To the extent that an act or decision under this policy may engage human rights, Council will have regard to the *Human Rights Act 2019* in undertaking the act or making the decision.

Relevant Legislation

Information Privacy Act 2009

Local Government Regulation 2012

Public Sector Ethics Act 1994

Right to Information Act 2009

Related Documents

Employee Code of Conduct

Councillor Code of Conduct

Council’s Complaints Management Framework

Council’s Complaints Management Policy

Councillor Confidentiality Guideline

Disclosure of Personal Information Policy

Information Management Guideline

Information Privacy Policy

Investigations Policy

Right to Information Policy