



City of Hobart

Information Disclosure Policy and Procedures



City of **HOBART**

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1. Purpose

The Hobart City Council (the Council) supports 'open government' and 'open data' which is the core vision for government information management in Australia. It is recognised that public sector information is a national resource that should be published for community access and use.

The Council is a public authority as defined under the *Right to Information Act 2009* (the Act). The Council holds information and data of potential value to others outside of the Council, and for and on behalf of Tasmania, in order to perform its functions under the *Local Government Act 1993*.

It is acknowledged that Council data can be used by third parties to develop knowledge and insights beyond the scope and intent of the original data.

Section 23 of the Act requires principal officers (the Chief Executive Officer, CEO) of public authorities to prepare and promote policies and procedures for the release of information under the Act. This policy and procedures document has been issued in compliance with the Act and explains the disclosure policy and processes for the four types of information disclosure specified in the Act.

This policy and procedures meet the requirements for policies and procedures specified in section 23 of the Act. It has been developed to be used within the Council.

This policy and procedures is based on the Right to Information Act.

2. Scope

This policy and procedures applies to all officers of the Council and, where applicable, any contractors and consultants.

This policy and procedures covers the four types of information disclosure identified in section 12(2) of the Act:

- a required disclosure;
- a routine disclosure;
- an active disclosure; and
- an assessed disclosure.

3. Definitions

Active disclosure	A voluntary disclosure of information by a public authority in response to a request from a person made otherwise than under section 13 of the Act.
Assessed disclosure	A disclosure of information by a public authority in response to a request from a person made under section 13 of the Act. Application for assessed disclosure is the method of last resort.
Delegated officer	Officers delegated under section 24 of the Act to make a decision on an application for assessed disclosure or to undertake an internal review of a decision.
Exempt information	Is information that is exempt as set out in Part 3 of the Act.

Complex Application	Complex applications means applications on more than one IT system, or on backup IT systems as defined in Section 10 of the Right to Information Act.
Simple Application	Simple request means applications for material already available or that can be collated in less than an hour of officer time, that's from a primary record management system.
Information	Means: (a) anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording and photograph; (b) anything in which information is embodied so as to be capable of being reproduced; and (c) information which relates to the official business of the Council and excludes information which is in the possession of the Council for the sole purpose of collation or forwarding to a body other than another public authority.
Information warden	The Legal and Corporate Governance Group within the Council responsible for the initial collation, preparation, development, and publishing of the information, and for ensuring the information is up-to-date and accurate.
Officer	A member of staff or any person employed by or for the Council.
Ombudsman	The Ombudsman appointed under the <i>Ombudsman Act 1978</i> .
Personal information	Information or opinion in any recorded format, about an individual: (a) whose identity is apparent or is reasonably ascertainable from the information or opinion; and (b) who is alive, or has not been dead for more than 25 years.
Principal officer	The Chief Executive Officer.
Public authority	As defined under the Right to Information Act, to be read as including Council.
Required disclosure	A disclosure of information by a public authority where the information is required to be published under the RTI Act or any other Act, or where disclosure is otherwise required by law or enforceable under an agreement.
Right to Information Officer	An officer (who holds a delegation under section 24 of the Act) responsible for providing support (collating information, etc.) to a delegated officer.

Routine disclosure	A disclosure of information by a public authority which the public authority decides may be of interest to the public, but which is not a required disclosure, an assessed disclosure or an active disclosure.
The Act	<i>Right to Information Act 2009.</i>

4. Policy statement

Section 7 of the *Right to Information Act* gives a person a legally enforceable right to be provided with information in the possession of a public authority, (Council), unless the information is exempt information.

Information management is the responsibility of all officers and is critical to enable disclosure of information under the Act.

All officers are responsible and accountable for:

- keeping records of all official information produced, received or acquired; and
- making records to support what they do.

Delegated officers involved in the release of information to the public will make decisions which are consistent with the objects and provisions of the Act and with the *Right to Information Act 2009 Tasmania Ombudsman's Manual* and guidelines issued and maintained by the Ombudsman.

Refer

https://www.ombudsman.tas.gov.au/right_to_information/right_to_information_guidelines_and_manual

4.1 OBJECT OF THE RIGHT TO INFORMATION ACT 2009

The object of the Act is to favour active disclosure of information wherever possible.

Section 3 of the Act provides:

- (1) The object of this Act is to improve democratic government in Tasmania:
 - (a) by increasing the accountability of the executive to the people of Tasmania; and
 - (b) by increasing the ability of the people of Tasmania to participate in their governance; and
 - (c) by acknowledging that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.
- (2) This object is to be pursued by giving members of the public the right to obtain information held by public authorities and Ministers.
- (3) This object is also to be pursued by giving members of the public the right to obtain information about the operations of Government.
- (4) It is the intention of Parliament:
 - (a) that this Act be interpreted so as to further the object set out in subsection (1); and
 - (b) that discretions conferred by this Act be exercised so as to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information.

In addition, section 12(1) of the Act provides:

- (1) This Act does not prevent and is not intended to discourage a public authority or a Minister from publishing or providing information (including exempt information), otherwise than as required by this Act.

5. Principles

Information held by the Council is a valuable community resource. Where there is no legal need to protect the information it can be open to public access. Where appropriate and demand can be demonstrated Council information may be proactively published. The default position is the Council supports openness and transparency in the release of information.

The Council will release as resources reasonably and practically permit, data through electronic means.

The Council's Information Group will set strategy and manage the publication of data ensuring all releases meet corporate and legislative requirements for data security, the protection of personal information, intellectual property rights and business confidentiality with the sought guidance of the City's Legal and Governance Group and Council's information and data security resources.

The Council will support the mutual exchange of digital information and data with other entities through publishing of viable data holdings to information portals such as data.gov.au or the Hobart City ArcGIS Open Data Portal. Information and data published online will utilise industry-based standards for presentation and format.

The following principles guide officers in making decisions about what information is disclosed and the method of making that information available.

- The Council will make information in its possession publicly available where information is not subject to an exemption, that Council seeks to reply upon as set out in the Act. Some of the information that the Council holds is not able to be disclosed because it is:
 - (1) Information, by its nature, that may exempt from disclosure;
 - (2) contrary to the public interest to disclosure; or
 - (3) prevented by other law or agreements to be disclosed.
- Applications for personal information by an individual to who the personal information relates are dealt with under the *Personal Information Protection Act 2004*.

Licensing:

Wherever appropriate information published for community benefit will be issued under the Creative Commons 'BY' licensing standard, as recommended in the Intellectual Property Principles for Australian Government Agencies to minimise risk associated with errors or omissions.

Fees:

Information and data of wide community benefit would generally be free. However, Council reserves the right to charge fees and charges for the provision of information or data that is individually requested, specific in nature or requires Council resources to provide.

6. Roles and responsibilities

Table 1: Officers authorised to make decisions regarding the disclosure of information.

Disclosure type	Authorised officer(s)
1. Required	The CEO or delegated officer.
2. Routine	The information custodian following appropriate approval by the CEO or Manager Legal and Corporate Governance.
3. Active	The information custodian, except where the information is: • being sought by the media, the request will be forwarded to the Council's Strategic Communications, Engagement and Marketing Group. • being sought by Elected Members, the request will be forwarded to the Manager Legal and Corporate Governance. • potentially contentious, the request will be discussed or forwarded to the Manager Legal and Corporate Governance or another senior officer. The use of Active Disclosure is not to cause inappropriate delay or result in the placing of additional hurdles for applicants, nor be used as a barrier to making an application under the Right to Information Act. If the information custodian determines that some or all of the information held by the Council should not be actively disclosed, the officer will advise the person of any reasons why the information cannot be released and their right to make an application for assessed disclosure.
4. Assessed	The CEO and delegated Right to Information officers.

7. Procedures for types of disclosure

7.1 REQUIRED DISCLOSURE

Required disclosure is the disclosure of information by a public authority where the information is required to be published by legislation, or where disclosure is otherwise required by law or enforceable under an agreement.

This could include information or requests to be published under the Local Government Act, and other reports which the Council must make available under law.

7.1.1 Who will decide what information should be released as a required disclosure?

The principal officer or their delegate.

7.1.2 Process for the required disclosure of information

Delegated officers will disclose the required information in accordance with legislative requirements.

7.2 ROUTINE DISCLOSURE

Routine disclosure is the disclosure of information by a public authority which it decides may be of interest to the public. This information is generally around the organisation's structure, policies etc, and will generally be available online. Refer www.hobartcity.com.au

Examples of Information that is publicly available on the Council's website includes:

- Organisational structure and functions;
- Senior Executive details;
- Elected Member information - including allowances, expenses and gift register;
- Agendas and minutes for Council meetings and Planning Committee;
- Portfolio meeting information;
- Strategies and Plans, including but not limited to:
 - Annual Plan
 - Annual Report
 - Capital City Strategic Plan
 - Hobart: A Community Vision for our Island Capital
 - Inner Hobart Transport Network Operation Plan
 - Long Term Financial Management Plan
 - Strategic Asset Management Plan
- Council Fees and Charges
- Council Policies
- Details of tenders and contracts awarded by the City over \$100,000;
- Grants, Funding and recipients;
- New publications and announcements;
- Advertised Development Applications;
- Current and completed projects; and
- Employment and workforce information

Where people cannot access the information online, the Council will provide an alternative and reasonable means of access. If a person requires a method of accessing the information that incurs a cost, they may be required to pay, accessing the information by that method.

7.2.1 Identification of potential information types for routine disclosure

In addition, each team within the Council is to regularly review information it possesses and identify what information may be routinely disclosed.

Officers should take account of the objects of the Act and consider:

- What information may be material to the community – i.e what is significant, relevant and meaningful?
- What information might key stakeholders and the community reasonably expect to be able to access?
- The extent of public or other demand for the information.
- How useful the information would be to the public in dealing with the Council.
- Whether publication would improve the public's ability to contribute to the work of the public authority or to decision-making by the authority.
- Whether publication would provide increased transparency about the operations of the Council such as information about the Council's expenditure.
- Whether publication would promote greater accountability by the Council, for example by showing the basis of its decisions.
- Whether the information promotes community wellbeing.

Other questions relevant to a decision to routinely disclose are:

- Does the Council possess or have custody of the information?
- Does the information relate to the official business of the Council?

- Has the information been archived or is it out-of-date or otherwise inaccessible?
- Is it impracticable or resource intensive to prepare the material for routine release?
- Is the information significant – is it about important aspects of the Council such as major projects, key initiatives or policy documents?
- Is the information preliminary or deliberative or does it represent the final and approved position/decision?
- Does the information tell the public what we do, how we do it or how we spend public money?
- Is the release of the information lawful – having regard to the Act, other legislation, and any other legal obligation such as an agreement or copyright?
- Is the release appropriate – having regard to issues such as privacy principles, defamation, third party and security issues?
- Is the information accurate? All efforts should be made to ensure that information is up-to-date and accurate.
- What is the cost and time involved in producing the information? The release of information should be at the lowest reasonable cost.
- Is the information potentially exempt – having regard to Part 3 of the Act?
- Is it contrary to the public interest to release – after having regard to all other all other relevant matters to be considered under the Act?

7.2.2 Who will decide what types of information can be routinely disclosed?

The CEO or Manager Legal and Corporate Governance must approve types of information deemed as suitable and appropriate for routine disclosure prior to the information being published.

All business units of the Council will regularly review information they hold (or are gathering) and make a decision as to whether it should be routinely disclosed. Identification of potential suitable sources of information for routine disclosure can be made by any business unit within the Council.

7.2.3 Publication of new routine disclosure items and ensuring published items are kept up to date

Once the information is approved by the CEO, the publishing and subsequent updating of the information is the responsibility of the team.

Within each team, the normal processes and procedures for the publishing/uploading of information on the Council's internet website apply.

7.3 ACTIVE DISCLOSURE

Active disclosure is the voluntary release of information by a public authority or a Minister in response to a request from a person made outside the provisions of the Act and is not an assessed disclosure. In general, this is the voluntary release of information on receipt of a request.

7.3.1 Who will decide what information can be actively disclosed?

General enquiries will be dealt with through normal channels; for example, telephone enquiries may be appropriate for simple requests but more complex requests for information will need to be dealt with in accordance with this policy. Applicants can seek to have any fee waived under the Hardship Policy.

If an officer determines that some or all of the information held by the Council should not be actively disclosed, the officer will tell the person making the request and explain their rights to seek an assessed disclosure under the Right to Information Act.

All decisions should be made taking into account the need for a timely response and the object of the Act to favour disclosure of information wherever possible, and with our regard to our [Customer Service Charter](#).

Other applicable processes include:

(a) Media approaching an officer

At times, the media may approach officers. While these opportunities have the potential to highlight and promote achievements, events and community involvement, they could also be contentious or have wider policy implications. Whenever you are approached by the media contact the Strategic Communications and Marketing Team, who will advise of the processes and procedures and provide approval. No officer is to make a public statement without having first made this contact.

The Strategic Communications and Marketing Unit will also consult on a response to a media enquiry that requires direct involvement with the CEO's Office or the Lord Mayor's Office.

7.3.2 Process for the active disclosure of information

Information that is publicly available can be provided orally or in writing or by providing the information requested in a hard copy or electronic form.

Information will continue to be released according to normal Council practices.

For all requests not covered by the section above, officers will:

- Direct the person to the information if it is already publicly available.
- Consider asking for a request in writing to provide greater clarity about the information being sought, and to whom the information is to be provided.
- Decide whether the information can be released to the person in full or in part, taking into consideration factors such as:
 - third parties – who may have provided commercial-in-confidence information or information provided strictly in confidence by third parties
 - personal information – decisions must be consistent with the Personal Information Protection Principles as set out in the *Personal Information Protection Act 2004*
 - confidentiality – information provided in confidence (commercial or otherwise)
 - copyright or ownership of the material
 - potential exemptions as outlined in the Act
 - contractual obligations that may relate to the information
 - if the information is part of an ongoing investigation or legal action.
- Release any of the requested information that can be disclosed and, where applicable, inform the person about their rights to apply for an assessed disclosure under the Act to obtain access to any information which cannot be actively disclosed.

7.3.3 Making information available via active disclosure

All decisions should be made taking into account the need for a timely response and the objective of the Act to favour active disclosure of information wherever possible.

7.3.4 Charges for information which is actively disclosed

Generally, there is no charge for information which is actively disclosed. However, the Council reserves the right to charge a fee for the provision of the information as provided for in the City of Hobart's Fees and Charges schedule – refer [Fees and Charges Schedule](#).

7.4 ASSESSED DISCLOSURE

Assessed disclosure is the form of disclosure of last resort and is where information may be disclosed following receipt of a formal application for information under section 13 of the Act.

7.4.1 Process for making an application for assessed disclosure

A person making a request for assessed disclosure must make the application in writing. An Application for Assessed Disclosure form and information about making an application is available on our website.

Applications must be accompanied by the application fee of 25 units, and this fee is indexed annually. Information about the Fee Unit Act 1997 can be found on the Department of Treasury and Finance's website, refer: <http://www.treasury.tas.gov.au>.

The fee may be waived if the applicant is:

- impecunious (in financial hardship); or
- a Member of Parliament, and the application is in connection with their official duty; or
- is a journalist acting in connection with their professional duties; or
- able to show that the information sought is intended to be used for a purpose that is of general public interest or benefit.

The CEO may delegate his or her decision-making power for assessed disclosures. Delegated Right to Information officers are responsible for assessed disclosure decisions including any requests for internal reviews.

Section 24 of the Act require that the CEO must be satisfied that delegated officers have the knowledge and skills necessary to perform or exercise the functions or powers delegated by the CEO.

All delegated officers within the Council are required to undergo training to ensure a sound understanding of the Act and the Right to Information (RTI) Manual and guidelines issued by the Ombudsman.

7.4.2 Process for assessing an application for assessed disclosure

The process for assessing an application for assessed disclosure is outlined in the Act and in the RTI Manual and guidelines published by the Ombudsman. The RTI Manual also includes fundamental considerations when working with the Act including refusing applications, the public interest test, exemptions, and statements of reasons.

Refer [https://www.ombudsman.tas.gov.au/right to information/right to information guidelines and manual](https://www.ombudsman.tas.gov.au/right%20to%20information/right%20to%20information%20guidelines%20and%20manual)

All requests for information are dealt with in accordance with the timeframes specified in the Act. The Act provides specific timeframes for a number of considerations:

- negotiating with the applicant to refine the application;
- consulting with third parties;
- transferring the application to another public authority or Minister, and informing the applicant; and
- notifying the applicant of a decision on their application.

7.4.3 Search and retrieval of information

Upon receipt of a request for assessed disclosure the Right to Information officer, on behalf of the delegated officer, will liaise with the relevant business unit(s). This business unit(s) is responsible for searching and producing the information sought and providing it to the Right to Information officer strictly within the nominated timeframe.

The relevant officers are to also create a written record detailing how the searches for information were undertaken, as detailed in the Ombudsman's Guidelines.

All information, whether potentially exempt or not, must be disclosed to the officer who will then review the information and make a decision on whether it should be disclosed.

If the applicant is of the view the search for information has been insufficient, they may seek a review of the decision made by the delegated officer. If this is the case evidence may be requested on how the search for information was undertaken, this may be in the form of a report detailing specifically how the information was searched for.

Section 50(2) of the Act provides that it is an offence to deliberately fail to disclose information which is the subject of an application for assessed disclosure of information, in the circumstances where the information is known to the person to exist, other than where non-disclosure is permitted in accordance with the Act or another Act. A penalty of up to a maximum fine of 50 penalty units applies to any breaches.

The Ombudsman is required by section 49(1) of the Act to issue and maintain *Guidelines in relation to searching and locating information*.

Refer https://www.ombudsman.tas.gov.au/right_to_information/right_to_information_guidelines_and_manual

7.4.4 Providing a written decision

The delegated officer responding to an application for assessed disclosure must provide the applicant with a written decision that explains:

- the information in the Council's possession
- whether or not the information is released
- the reasons for any exemptions
- the applicant's rights to seek a review of an assessed disclosure decision, which is contained in Part 4 of the RTI Act:
 - an applicant may, within 20 working days of receipt of the decision, request an internal review of a decision by a delegated Right to Information Officer
 - an applicant may also apply to the Ombudsman for an external review.

7.4.5 Review provisions

Review provisions are contained in Part 4 of the Act. To request an internal review of a decision by a delegated Right to Information officer, the applicant should apply to the CEO within 20 working days following receipt of the written decision.

Section 45(1) of the Act specifies a number of other circumstances where it is possible for the applicant for assessed disclosure or a third party to go directly to the Ombudsman for an external review.

8. Publication policy

8.1 ADVICE TO APPLICANTS AND THIRD PARTIES

Applicants will be advised in the letter accepting their application that information released to them may be published on the Council's disclosure log within 48 hours of being released to them. Any third parties who are consulted during the assessment process will also be advised of this possibility.

8.2 DISCRETION NOT TO PUBLISH

The CEO or delegated Right to Information officer retains discretion not to publish some or any of the information which has been released to an applicant. Factors to be considered may include:

- whether the personal information of an individual would be apparent from the information
- whether the business affairs of a third party would be revealed
- whether the information has been redacted so significantly that it would be very difficult to discern its meaning
- whether the information is so voluminous that it would not be practicable to publish.

There are two categories to consider in relation to 'personal information', i.e the personal information of the applicant, and the personal information of others.

While information released to an applicant may contain that applicant's personal information, it would not be reasonable to publish that personal information.

The following information will generally not be published:

- personal information; or
- confidential information relating specifically to the applicant; or
- information about the business, commercial, financial or professional affairs of any person; or
- pages from which the content has been fully redacted.

8.3 WHAT IF THE RELEASED INFORMATION IS SUBJECT TO AN INTERNAL OR EXTERNAL REVIEW?

If information is provided only in part to the applicant, but this is later changed following an internal or an external review, that additional information will then be published on the disclosure log. Where practicable, the released information will be made available online in pdf format.

8.4 TIMING OF DISCLOSURE

Where it is decided to publish released information, it will be published, where practicable, within two working days of releasing the information to the applicant.

If the information released is large, it may be released gradually, with a note indicating that this is the case.

The Right to Information delegated officer is responsible for the publication of this information.

9. Contact details

Right to Information, Legal and Governance Group, City of Hobart

- telephone: 6238 2711
- email: coh@hobartcity.com.au
- post: GPO Box 503, Hobart TAS 7001.

10. Related legislation, policies and documents

Disclosure of information is governed primarily by the *Right to Information Act 2009*; however, the following legislation and related documents are also relevant in application of the Act:

- [Local Government Act 1993](#)
- [Right to Information Act 2009](#)
- [Right to Information Regulations 2010](#)
- [Personal Information Protection Act 2004](#)
- [Archives Act 1983](#)
- [Ombudsman's Right to Information Act Manual and guidelines from time to time](#)
- [The Office of the Australian Information Commissioner \(OAIC\)](#)
- Council's [Customer Service Charter](#)
- Council's [Financial Hardship Assistance Policy](#)
- Council's Internal Pricing and Policy Guidelines
- Council's Open Data Policy – now supersede by this document
- [Council's Information Privacy Policy](#)
- [G8 Open Data Charter, June 2013](#)

Responsible Officer:	Manager Legal and Corporate Governance
Developed by:	Governance Team
Policy first adopted by Council:	
Date of last review:	
Date of next review:	August 2026

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