

CONFIDENTIAL INFORMATION POLICY

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1. OBJECTIVE

To ensure a high level of integrity and public confidence by implementing appropriate internal controls regarding the proper access, use, handling, storage and disposal of confidential information.

Procedures shall accompany this policy in determining the means by which confidential material shall be received, recorded, stored, accessed, reproduced, utilised and destroyed.

2. PRINCIPLES

- This policy applies to Councillors, employees, contractors and other persons who through their relationship with the City may gain access to, or are privy to confidential, restricted access or sensitive information.
- Confidential information may be in the form of anything oral, written or printed matter, maps, plans or photographs, sounds or visual images, processes of a personal or commercial nature.
- The City acknowledges the sensitivity of confidential information that is received as a public authority to conduct its business that may relate to individual ratepayer details, commercial proposals, contractual and legal constraints.
- Access to such confidential information is generally restricted to authorised individuals who are required to be aware of the information to be able to properly perform their function. Such authorised persons are determined by the CEO or his/her representative.
- It is part of the individual's duty whilst representing the City, to ensure that confidential information is treated as such, so as not to harm, prejudice and compromise the interests of the City or Council or any individual or organisation, to gain any advantage by them or to another party by having access to such confidential information.
- Section 5.23 of the *Local Government Act 1995* allows meetings to be held in a "closed" environment where access to such confidential matters is restricted to certain individuals or groups. Such information and discussions will be clearly marked within the agenda of the meeting and any distribution of material will be restricted to authorised persons only.
- No representative of the City shall disclose such material to an unauthorised person unless:
 - the other person is authorised to receive such information;
 - permission has been received by the "owner" of the information and the CEO or his/her representative;
 - at the conclusion of a deliberative process, the Council or the CEO make such a determination that this material (in full or in part) will no longer be restricted;
 - through a legal or court determination;
 - through approved statutory and regulatory disclosures.

- Where copies of confidential documents are necessitated, direction shall be given by the authorised officer as to:
 - (a) the number of reproductions to be made for recipients,
 - (b) who is to receive the information,
 - (c) the method of distribution of information,
 - (d) how the information is to be used, and
 - (e) whether the material can be retained by the recipients or returned for destruction.
- Any copies of confidential material should be returned to the CEO or his representative for appropriate destruction.
- The Council or CEO may use discretion that confidential information may have a finite life before all or part of the information can be publicly disclosed. Such determinations will be made accordingly at the time of the original decision or at a subsequent review of the matter. Consideration will be given to any statutory obligations imposed on the City.

2.1 Determining what is confidential

Confidential information is information that has been gained by the City from a variety of sources to enable the City to properly perform its legislative and executive functions. The information obtained may range from access to documents received from other state or commonwealth government departments, personal ratepayer details, business proposals and developments, complaints, etc. The Commonwealth's *Privacy Act 1988* does not apply in Western Australia but the City shall take into consideration and observe the principles outlined within this legislation relating to:

1. Consideration of personal information privacy
2. Collection of personal information
3. Dealing with personal information
4. Integrity of personal information
5. Access to, and correction of, personal information.

The City is obliged to meet its obligations under the *Freedom of Information Act 1992 (WA)* which identifies that the following information *may be* exempt from public disclosure subject to the meeting of certain conditions:

1. The matter is a contractual negotiation;
2. The matter is related to specific employees or their performance;
3. The matter is related to specific elected members or their performance;
4. The matter is to be discussed is legal in nature and its disclosure may compromise or prejudice an outcome to be addressed through the legal system;
5. The matter being discussed or to be disclosed is commercial in confidence and likely to reveal trade secrets or commercial value;
6. Matters revealing personal information of an individual;
7. Matter is part of a deliberative process, e.g. a tender evaluation process
8. Matter is protected by statutory provisions, namely:
 - *Equal Opportunity Act 1984*
 - *Legal Aid Commission Act 1976*
 - *Parliamentary Commissioner Act 1971*
 - *Inspector of Custodial Services Act 2003*
 - *Health and Disability Services Act 1993*
 - *Industry and Technology Development Act 1998*
 - *Public Interest Disclosure Act 2003*
 - *Children and Community Services Act 2004*
 - *Family Law Act 1975*
 - *Family Court Act 1997*

2.2 Information not considered confidential

The *Local Government Act 1995* provides that certain information can be inspected by the public during office hours free of charge under section 5.94 unless prohibited by other legislation.

2.3 Release of confidential information

Confidential information shall not be released unless by Court Order, subpoena, warrant or other statutory direction.

2.4 Record keeping and disposal of confidential information

Confidential information will be registered in Synergysoft and assigned an appropriate security level to restrict access to authorised personnel only.

Original documentation will be placed onto an appropriate file (also security coded), and stored in the Records filing room, which has restricted key card access.

Authorisation from the CEO (or appropriate Director/Manager) is required prior to accessing confidential information. Audit trails can be conducted within Synergysoft to establish which employees have accessed documentation, if a breach is to occur.

Information that is confidential and forms part of meeting reports will be held in a secure location and not available for public consumption.

Records of a confidential nature are to be disposed of in accordance with the General Disposal Authority for Local Government. Individual employees and Councillors are not to destroy any original Council Records.

3. CONSEQUENCES

This policy represents the formal policy and expected standards of the Council. Appropriate approvals need to be obtained prior to any deviation from the policy. Elected members and employees are reminded of their obligations under the Council's Code of Conduct to give full effect to the lawful policies, decisions and practices of the Council.

Any breach of this policy is considered to be of a serious nature and will be dealt with by the CEO in accordance with the City's Code of Conduct. Any person, body or organisation can make a complaint if they consider a breach of this policy has occurred.

4. ROLES AND RESPONSIBILITIES

All Councillors, employees, contractors and members of Council bodies have the following responsibilities:

- Not to access or attempt to access confidential information that is not required within their role;
- Treat confidential information as confidential and exercise due care when accessing, using, handling, storing and the disposing of confidential information acquired within their role;
- Not use confidential information to:
 - Gain improper advantage for any other body, organisation or themselves
 - Cause harm or detriment to council or any other body or organisation
- Notify the sender if confidential information is received by mistake. Emails are to be deleted immediately;
- Prevent the disclosure of confidential information to any person or organisation.

In the case of a mutually agreeable disclosure, Councillors, employees, contractors and members of Council bodies must ensure a non-disclosure is in place with the appropriate endorsement gained by Council or the CEO.

All councillors, employees, contractors and members of Council bodies must avoid discussing confidential information with family, friends and business associates.

All councillors, employees, contractors and members of Council bodies must ensure confidential information under their control, acquired through their role at the City of Karratha, is properly safe guarded at all times.

Upon the retirement, resignation or termination with the City, it is expected where personnel have confidential knowledge of matters, that this information will not be disclosed to any unauthorised persons whether still working at the City or general members of the public. Evidence of such a breach by an individual may result in civil or criminal action being taken by those affected.

5. REFERENCES TO RELATED DOCUMENTS

- *Local Government Act 1995*, Sections 5.23 (2); 5.91 – 5.97
- *Freedom of Information Act 1992 (WA)*
- *Privacy Act 1988 (Cth)*
- City of Karratha Code of Conduct
- City of Karratha *Standing Orders Local Law 1999*

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This policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.