

POLICY

Records Management for Councillors

Date adopted by Council	29 January 2024
Minute number	24/007
Endorsed by	Senior Management Group – 20 December 2023
CM Ref	CD-164/21
Due for review	29 January 2028
Related documents	
Responsible officer	Information Services Manager
Department/Section	Information Services
Category	Information Management
Community Strategic Plan goal	<p>Goal 5 Responsible Governance.</p> <p>5.1 Effectively and efficiently manage the business of Council, while encouraging an open and participatory Council with an emphasis on transparency, community engagement, action and response.</p>



Policy Statement

Councillors shall take care to create and capture full and accurate records of any Council business undertaken in the course of their official duties with Council.

Objective

To ensure that full and accurate records of the activities and decisions of Councillors, in the course of their official duties for Council, are created, managed and disposed of appropriately to meet Council's organisational needs and accountability requirements.

Scope

This document has been specifically developed to assist Councillors to meet their recordkeeping responsibilities.

All Councillors must comply with this document in their conduct of official business for Council. Official business includes business relevant to the performance of the function and duties of the office of Councillor. This document applies to records in all formats, including electronic records.

Definitions

For the purpose of this policy the below terms are applicable. Definitions have been compiled from the *State Records Authority Glossary of Recordkeeping Terms*. Sources of terms include Australian and international standards on records management.

Access	Right, opportunity, means of finding, using or retrieving information.
Appraisal	Appraisal for managing records is the recurrent process of evaluating business activities to determine which records need to be created and captured as well as how and how long the records need to be kept.
Archives	Records of organisations and individuals that have been selected for indefinite retention on the basis of their continuing value for legal, administrative, financial or historical research purposes.
Disposal	Range of processes associated with implementing records retention, destruction or transfer decisions which are documented in disposition authorities or other instruments.
Recordkeeping	Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information.
Recordkeeping systems	Information system which captures, manages and provides access to records over time.
Records	Information created, received, and maintained as evidence and as an asset by an organisation or person, in pursuit of legal obligations or in the transaction of business. Record means any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means.



Records management program	A records management program encompasses the management framework, the people and the systems required within an organisation to manage full and accurate records over time. This includes the identification and protection of records with longer-term value that may be required as State archives.
Retention and Disposal Authority	Documents authorised by the Board of the State Archives and Records Authority of New South Wales that set out appropriate retention periods for classes of records.
State archive	A State record that the State Archives and Records Authority of New South Wales has control of under the <i>State Records Act 1998</i> .

Policy Details

Councillors shall take care to create and capture full and accurate records of any Council business undertaken in the course of their official duties with Council.

1 STATE RECORDS

1.1 Some Councillors’ records are State records

Public offices are bound by the State Records Act 1998 which establishes rules for best practice for recordkeeping in NSW Government, encouraging transparency and accountability. Councils are identified as public offices under the Act (section 3(1)). When discharging functions of Council, Councillors are subject to the State Records Act when they create or receive ‘State records’.

A State record is ‘any record made and kept or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office’ (section 3(1)).

1.2 Examples of State records

Examples of State records include (but are not limited to):

- Correspondence, including emails, regarding any Council business, including building and development matters.
- A petition received from a community group.
- Declarations concerning a Councillors’ pecuniary interests.
- Speech notes made for addresses given at official Council events.
- Complaints, suggestions or enquiries by rate payers about Council services.
- Any written response provided by the Councillor to any of the above examples.



1.3 Examples of records that are not State Records

Conversely, records which are created, sent or received by Councillors when they are **not** discharging functions of Council are **not** considered to be State records for the purposes of the State Records Act 1998.

Examples of records that are **not** State records include (but are not limited to):

- Records relating to political or electoral issues eg lobbying for votes, supportive emails from members of the community regarding elections or political stance.
- Communications regarding matters of personal/general interest rather than Council interest eg information from environmental or other interest groups not specific to issues being considered by Councillors or Council.
- Records relating to attendance at sports functions, church fetes, community functions when the Councillor is not representing Council.
- Personal records of Councillors such as personal emails, character references for friends, nomination for awards, letters to local newspapers etc that are not related to Council business.

2 RECORDS AS A RESOURCE

Records are a vital asset to Council. Many records created and received by Councillors have the potential to:

- support the work of Councillors and Council's program delivery, management and administration;
- help Councillors and Council to deliver customer services in an efficient, fair and equitable manner;
- provide evidence of Councillors' actions and decisions and establish precedents for future decision making; and
- protect the rights and interests of the Council, Councillors and its clients and rate payers.

3 CREATION AND CAPTURE OF RECORDS

3.1 What records to create and capture

Councillors should create and capture full and accurate records of any Council business undertaken in the course of their official duties for Council. Council business can include:

- providing advice, instructions or recommendations;
- drafts of documents for Council containing significant annotations or submitted for comment or approval by others;
- correspondence received and sent relating to their work undertaken for Council.



Council is responsible for:

- creating and capturing records of Council or committee meetings where the Council is the secretary;
- capturing any State records it sends to Councillors regarding Council business.

3.2 Creation of records of a confidential nature

On some occasions Councillors are approached and asked to keep matters discussed relating to Council business confidential. This indicates that confidential conversations / correspondence must still be recorded and registered into Councils recordkeeping systems if they refer to Council business. There are policies and security controls in place to ensure these records have limited access (see Section 5 Security and Confidentiality of Records), but these records may still need to be produced under relevant legislation, eg subpoena, the Government Information (Public Access) Act 2009. With security controls in place records are likely to be less at risk than if they were not in recordkeeping systems.

3.3 How to create records

Council has a number of paper and electronic templates available for Councillors to create emails, letters and memos while conducting business for the Council. These will assist Councillors in ensuring that the essential information is recorded.

Details of significant advice, commitments etc made during telephone or verbal conversations or via SMS should be recorded using the Council's standard file note template (eg time, date, parties involved, summary of discussion, commitments, advice given etc and reasons for them). Notes in Councillors' diaries are generally not adequate where there are recordkeeping requirements, they should be converted into a formal file note. These records should be made as soon as possible after the event to ensure the information is accurate.

See Section 5 Security and Confidentiality of Records for information about the treatment of confidential matters.

3.4 How to capture records

Records of Council business that are created or received by Councillors (with the exception of those sent from Council as they are already captured) should be saved into official Council recordkeeping systems as soon as practicable so that Council can assist with their long term management.

Paper records

Records created or received in paper format should be forwarded to Council's records section. If records are of a sensitive or confidential nature, the Councillor should alert the General Manager to this fact so the appropriate security controls can be applied.



Email and electronic records

Email and other electronic records should be forwarded to Council promptly for registration into Content Manager. If records are of a sensitive or confidential nature, the Councillor should alert the General Manager to this fact so the appropriate security controls can be applied.

Councillors' copies

If a Councillor retains copies of any records once the originals have been forwarded for registration, these should be retained only while needed for current Council business. The routine destruction of copies of records is permitted under the State Records Act 1998 (section 21(2)). See Section 10 Disposal for more information.

It is important to recognise that these copies should be treated like the originals with regard to security controls applied (see Section 9 Handling and Storage of Records).

4 REGISTRATION OF RECORDS BY COUNCIL

4.1 Registration procedures

Records received from Councillors for registration will be handled in accordance with the Council's records management procedures.

4.2 Incoming mail for Councillors received at Council with no privacy markings will be opened by the records staff. Mail considered to be a State record will be registered into Council's recordkeeping system before being forwarded to the Councillor. Mail with privacy markings will be forwarded to the Councillor unopened. It is then the Councillor's responsibility to return any mail that is a State record and requires registering in the Council's main recordkeeping system.

5 SECURITY AND CONFIDENTIALITY OF RECORDS

5.1 Building controls

Council's paper records are kept securely with security controls to protect against unauthorised access.

5.2 System controls

The Council's records management software which controls both paper and electronic records restricts access according to security levels.

5.3 Rules for Council staff and Councillors

Council staff and Councillors are bound by Council's Code of Conduct, preventing unauthorised access or disclosure of Council records.



6 ACCESS TO RECORDS OF COUNCIL

6.1 Access relating to civic duties

Councillors need to have access to information held by Council to help them make informed decisions on matters under their consideration. This information should be relevant and appropriate to the discharge of their obligations eg records relating to matters before Council or due to be listed for which there is notification.

As a first step, Councillors should request information through the General Manager.

Records can be made available for viewing during normal business hours. Records must be viewed in the presence of a records officer or a senior staff member.

6.2 Access relating to personal interest

Councillors wishing to access records in relation to a matter of personal interest have the same rights as other members of the public. Access may be obtained, for example, under:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998

6.3 Refusal of access

Should a Councillor be refused access to records of Council, the Councillor will be provided with reason(s) and these reasons will be publicly available. Requests for review should be directed to the General Manager.

If a Councillor is refused access to records under any Act, they should refer to any appeal provisions of that Act.

6.4 Council archives should be viewed within Council offices during normal working hours. Photocopies of relevant pages can be made available to Councillors if restrictions on copying do not apply.

7 UNAUTHORISED ACCESS OR DISCLOSURE OF COUNCIL RECORDS

The Local Government Act 1993 section 664(1) prohibits the disclosure of information obtained in connection with the administration or execution of the Act, except in certain specific circumstances. Councillors are also bound by the Councils Code of Conduct not to:

- attempt to access records they are not authorised to see;
- provide unauthorised access to other parties while Council records are in their care;
- disclose confidential information about Council business; or



- disclose personal information of employees, clients etc without the subject's consent.

These rules help to ensure that Council and its staff and clients are protected and that the requirements of relevant legislation, such as privacy legislation, are met.

8 HANDLING AND STORAGE OF RECORDS

8.1 Damage or neglect of records is an offence

Damage or neglect of a State record is an offence under section 21 of the State Records Act. Councillors should apply the storage and handling rules below to ensure records are protected.

8.2 Handling of records

When handling Council records the following rules apply:

- registered documents are not to be rearranged or removed from Council files (the order provides context for the records) and information on files should never be altered;
- no food or drink is to be consumed near records (grease and food particles can attract vermin and liquids can damage records if spilt on them);
- strictly no smoking around records (due to airborne pollutants and the risk of fire);
- if records are damaged during handling, the records department should be informed. No attempts should be made to repair the record (as some repairs can do long term damage).

8.3 Storage of records

When storing Council records temporarily the following rules apply:

- records are to be kept away from known risks such as water, fire, mould, vermin, vandalism, chemicals, direct sunlight, extreme temperatures etc;
- electronic records should be protected against additional hazards such as viruses or electronic fields;
- records should be secured appropriately to their level of sensitivity. No Council records should be left in plain view in vehicles or lying around the house.

Councillors who are storing records of a sensitive or confidential nature should ensure that they are appropriately protected.

9 DISPOSAL OF RECORDS

9.1 Liaison with Council for disposal

Councillors should liaise with the Council regarding the disposal of any records of Council business as Council is responsible for:



- ensuring legislative requirements are met;
- ensuring destruction is undertaken appropriately (eg that no sensitive information is released due to inappropriate destruction methods); and
- documenting disposal decisions for accountability purposes.

The Council's records management staff should be primarily responsible for the disposal of State records, unless other arrangements are approved.

9.2 Disposal in accordance with the State Records Act

State records held by Councillors must be disposed of in accordance with the State Records Act 1998.

State Records NSW has issued the General Retention and Disposal Authority – Local Government Records GA 39, which outlines classes of records and how long they should be kept before being legally destroyed or transferred to archives. Periods specified are based on relevant legislations, guidelines and standards. Failure to keep records for the length of time specified in the GA may put Councillors and Council at risk.

Other forms of authorised disposal include:

- by order of a court or tribunal;
- 'normal administrative practice' (NAP) where ephemera, duplicate or facilitative records can be destroyed. State Records NSW has produced Guidelines on Normal Administrative Practice (NAP) which provide further information on the application of NAP.

Responsibilities

Councillors

Councillors will comply with all aspects of this policy at all times.

General Manager

The General Manager will ensure this policy is reviewed annually.

Manager Information Services

The Manager Information Services will review this policy annually.

Records Staff

Council records staff will provide support to Councillors

References

- State Records – What have records got to do with me? - available at:
<https://staterecords.nsw.gov.au/recordkeeping/what-have-records-got-do-me-nsw-agencies>



- State Records - Recordkeeping Fundamentals for Councillors - available at: <https://staterecords.nsw.gov.au/sites/default/files/Recordkeeping/Councillors%202018%20printable.pdf>
- State Records – Destruction of records - available at: <https://staterecords.nsw.gov.au/recordkeeping/guidance-and-resources/destruction-records#:~:text=If%20you%20destroy%20a%20record,.nsw.gov.au%20>.
- State Records - General retention and disposal authority: local government records (GA39) - available at: <https://arp.nsw.gov.au/ga-39-general-retention-and-disposal-authority-local-government-records/>
- NSW Ombudsman, *Good Conduct and Administrative Practice: Guidelines for state and local government*, 2003 - available at: https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0009/125784/Good-conduct-and-administrative-practice-guidelines-for-state-and-local-government.pdf
- NSW Premier's Department, *Model Code of Conduct for Local Councils in NSW - 2020* - available at: <https://www.olg.nsw.gov.au/wp-content/uploads/2020/08/Model-Code-of-Conduct-2020.pdf>
- Australian Standard, AS ISO 15489-2002, *Records management*
- Australian Standard AS 5090-2003, *Work process analysis for recordkeeping*

Related Legislation

- State Records Act 1998 – including standards and retention and disposal authorities issued under the Act - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1998-017>
- State Records Regulation 2015 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2015-0505>
- Environmental Planning and Assessment Act 1979 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1979-203>
- Evidence Act 1995 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1995-025>
- Government Information (Public Access) Act 2009 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2009-053>
- Health Records and Information Privacy Act 2002 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2002-071>
- Local Government Act 1993 - available at: <https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030>
- Privacy and Personal Information Protection Act 1998 - available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1998-133>

Acknowledgement

Council acknowledges the use of State Records NSW Sample Records Management Policy and Procedures for Councillors which draws on policy/procedure documents of State Library NSW, State Records NSW, Armidale/Dumaresq Council, Shoalhaven City Council and City of Sydney Council.



Version History

Version No.	Date	CM Reference	Reason for Review
1	27/10/2015	INT-14497/15	Timed Review
2	15/11/2017	CD-61/21	Timed Review
3	29/01/2024	CD-164/21	Timed review and change to new format.



Recordkeeping Fundamentals for Councillors



What is Recordkeeping?

WHAT IS A STATE RECORD?

A State record is any record created, received and kept by any person in the course of exercising official functions of a public office.

WHY ARE RECORDS IMPORTANT?

Records tell us **what, where** and **when** something was done or **why** a decision was made. They also tell us **who** was involved and under what authority. In other words, records provide evidence of government and individual activity.

Records are an indispensable ingredient for accountable Local Government. Poor recordkeeping results in inefficiencies and poor decision-making. **Councillors** are subject to the *State Records Act 1998* when they are undertaking business on behalf of the Council.

A RECORD CAN BE ANY FORMAT



Digital



Physical





Common Record Groups



Correspondence

Records that document communications between council employees, and between council employees and community members. E.g. emails and letters.



Core Business Docs

Records that document core business processes such as reports, briefing notes, plans, agendas, minutes, working papers, and more.



Financial Records

Documentation of financial activity, such as financial reports, budgets, estimates, receipts, contracts, tenders, invoices, statements, and more.



Events and Resources

Records of events your council hosts or attends may be required as a record. All content that your council produces, publishes, and/or circulates are State records.



Social Media

If your council (or you in an official capacity) has a presence on social media, all content and communication (including reactions to posts, comments, tweets, etc.), published/transmitted via these platforms are State records.

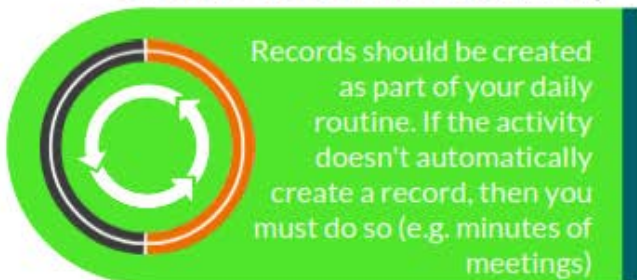


Your Responsibilities

The *State Records Act 1998* establishes a number of responsibilities for every council. While the Council's General Manager, Senior Responsible Officer, and records unit are responsible for meeting requirements of the Act, Councillors also have responsibilities as a public official.

They can be summarised into 6 key points.

Create Records Routinely



Use Official Systems



Know Your Policy



Prevent Unauthorised Access



Approved Destruction Only



Treat With Care



The **Councillor Handbook** contains further information on recordkeeping responsibilities.



Useful Extras



INFORMATION & RESOURCES

See our website for recordkeeping advice, guidance, and recordkeeping information.



TRAINING & EDUCATION

We run regular recordkeeping courses, but in the mean time see our online training modules.



NSW OMBUDSMAN

The *Good Conduct and Administrative Practice* (2017) publication, establishes detailed guidelines for proper recordkeeping practices.



FAQ

A fantastic resource for those new to recordkeeping. It provides answers on many subjects.

CONTACT US



Visit our website for additional advice and resources



Our Future Proof blog has more information on digital recordkeeping



For more advice get in touch via email
E: govrec@records.nsw.gov.au



Keep your finger on the pulse, follow us on social media

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State Archives & Records