



CASSOWARY COAST REGIONAL COUNCIL

POLICY GUIDELINES INFORMATION PRIVACY & CONFIDENTIALITY

Policy Number: 2.15

1. Authority

Local Government Act 2009
Local Government Regulation 2012
Planning Act 2016
Code of Conduct for Employees
Right to Information Act 2009
Information Privacy Act 2009
Crime and Corruption Act 2001

2. Scope

These guidelines must be observed by all Councillors, Previous Councillors Council employees, Contractors and Volunteers.

The Council will designate particular information or classes of information as "confidential" or "private", to clarify that the information must be dealt with in a certain way.

3. Responsibility

All Councillors, Previous Councillors, Council employees, Contractors and Volunteers must comply with these guidelines and are responsible for giving effect to it.

4. Guidelines

The Council will preserve the privacy and confidentiality of information as far as possible under the law.

4.1 Confidential Information

Areas in which, a reasonable person would consider the information would **always** be treated as confidential and **not** released include the following—

- Legal advice received by council, including the substance or effect of that legal advice, or any conclusions reached in that legal advice, or any reasoning upon which those conclusions were reached, or any course of action recommended in that legal advice;
- Information provided to Council or council staff on the condition that it is kept confidential;

- Information derived from government departments or ministers that has been classified as confidential;
- Information dealing with the appointment, dismissal, discipline, appraisal or industrial matters affecting employees;
- Information of a personal nature or about personal affairs, for example the personal details of councillors or council staff;
- Information that could result in action being taken against Council for defamation;
- Financial and legal analyses where the disclosure of that information may compromise Council or someone else;
- Information examined or discussed at a Councillor Workshop or briefing sessions, unless the CEO or relevant Director declares that such information (or part thereof) is not confidential;
- Information associated with the preliminary budget;
- Information dealing with rating concessions;
- Information associated with contracts proposed to be made by Council;
- Information associated with starting or defending legal proceedings;
- Information dealing with the security or disposal of property;
- Information dealing with trade secrets or any person or body;
- Information considered and discussed in meetings closed to the public pursuant to Section 275 of the *Local Government Regulation 2012*;
- Commercial-in-confidence information associated with any person or body - including where the release of information would affect a third party's competitive advantage; this is particularly relevant in a competitive tender situation;
- Names and/or address of complainants or witnesses; and
- Any information designated as confidential by the Chief Executive Officer, until such time as the Chief Executive Officer's deems otherwise.

The above is modified if by law there is a requirement to disclose.

4.2 Personal Information

The following classes of information **must always be treated** as personal/private information—

- A person's name, address, phone number or email address;
- A photograph of a person or a private residence;
- A video recording, whether CCTV or otherwise, for example, a recording of events in a classroom or at a train station;
- A person's salary, bank account or financial details;
- Allegations of wrongdoing against a person or details of wrongdoing or offences they may have committed;
- Details of a person's land ownership or disputes;
- A person's medical/health details
- Details of a person's education or activities;
- Details of a person's religious, sexual or political, preferences or race.

4.3 Use of information by Councillors

It is accepted that councillors will be in receipt of confidential information that may or may not be part of a formal council meeting. It is council's and councillors' 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 impact upon the interests of council organisation.

Councillors must handle information in a way that promotes and maintains the public's trust and confidence in the integrity of the Council. Improper release of Council information by a councillor is considered a breach of section 171 of the *Local Government Act 2009*.

A breach of section 171(3) of the *Local Government Act 2009* includes a release such as—

- Orally telling any person about the information or any part of the information;
- Providing the original or a copy of documentation of any part of the documentation that is marked confidential;
- Paraphrasing - putting into your own words - any confidential information and providing that in writing or orally.

A person may make a complaint about a breach by a Councillor of section 171(3) by giving notice of the complaint to the Council's CEO. A breach of section 171(3) is "misconduct". Allegations of misconduct must be referred by the Council's CEO (Refer section 176C of the *Local Government Act 2009*).

4.4 Use of information by Staff (refers to all local government employees, contractors, volunteers and including the Chief Executive Officer)

A person who is, or has been, a local government employee must not use information acquired as a local government employee to—

- a) gain (directly or indirectly) an advantage for the person or someone else; or
- b) cause detriment to the local government.

This does not apply to information that is lawfully available to the public.

A person who is, or has been, a local government employee must not release information that the person knows, or should reasonably know, is information that—

- a) is confidential to the local government; and
- b) the local government wishes to keep confidential.

Any release of confidential information for any purpose to any person or organisation (other than those who are entitled to the information, such as other council staff or councillors) is a breach of section 200(9) of the *Local Government Act 2009*. Release includes —

- orally telling any person about the information or any part of the information
- providing the original or a copy of documentation or any part of the documentation that is marked confidential
- paraphrasing - putting into your own words - any confidential information and providing that in writing or orally.

A breach of section 200 by an employee will be deemed to be a breach of the Employee Code of Conduct and the CEO may instigate any appropriate action deemed necessary in accordance with the code.

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