



ACCESS TO COUNCIL INFORMATION POLICY

Adopted: 14 April 2021

TRIM: 321722.2020



ACCESS TO COUNCIL INFORMATION POLICY

DIRECTORATE: City Corporate

BUSINESS UNIT: Governance Legal & Procurement

1. PURPOSE/ OBJECTIVES

The purpose of this policy is to describe Liverpool City Council's principles regarding public access to information and the process of managing requests for such access.

This policy reflects Council's commitment to open and transparent government by setting out how it intends to meet the requirements of the legislation.

2. DEFINITIONS

Act refers to the [Local Government Act 1993](#).

Agencies refers to other Government Departments, be they local, state or federal.

Formal GIPA refers to information requested where consultation with other agencies or third parties is required, or where the scope of the request means that it will take significant agency resources to provide the information.

GIPA refers to [Government Information \(Public Access\) Act 2009](#)

Informal GIPA refers to information which is considered "open access" under the GIPA Act, such as request for information that do not require extensive searches.

Notice to Produce requires Council to produce any specified document to the court.

Open access information is information listed in Schedule 1 of the [Government Information \(Public Access\) Regulation 2009](#).

Order to Produce are requests for information sent by any Agency.

Public Interest cannot be defined as it is of the *common interest*, the *common good* and the *public good*.

Public Interest Test requires balancing factors for and against disclosure of each piece of government information

Stakeholders Other business unit in Council

Subpoena is a writ to produce documents or attend court.

3. POLICY STATEMENT

This Policy will set out the structure of Liverpool City Council as set out under part 2 of the [Local Government Act 1993](#) (the Act).

Liverpool City Council (Council) holds valuable and diverse information.

There is a strong public interest in what Council does and the information it holds, and the Council is committed to making its information available to the community. Council is committed to openness and transparency in carrying out its functions.

Liverpool City Council is required to provide assistance to members of the public and other government agencies to obtain information held by Council. This is a legally enforceable right under various pieces of legislation.

Council authorises the release of information under routine business arrangements and under legislation such as the [Civil Procedure Act 2005](#), [Uniform Civil Procedure Rules 2005](#) and the [Government Information \(Public Access\) Act 2009](#) ('the GIPA Act'). The GIPA Act commenced in NSW in 2010. It replaced the *Freedom of Information Act 1989*. It gives all members of the public a legally enforceable right of access to information created, received and held by Government, including councils.

Council, in providing the public with access to information it holds, is guided by the following principles:

- open and transparent government
- a presumption in favour of disclosure unless there is an overriding public interest against disclosure
- a proactive approach to disclosure and dissemination of information
- timely, equitable and impartial processing of reasonable requests for information within relevant legislative and business frameworks, at the lowest reasonable cost
- respect for the privacy of individuals.
- Confidentiality

4 COUNCIL INFORMATION

4.1 STRUCTURE AND FUNCTIONS OF COUNCIL

4.1.1 Legal status of Council

Liverpool City Council is constituted under Part 2 of the [Local Government Act 1993](#) (the Act).

Section 220 of the Act provides that a council is a “*body politic of the state*” and that “*a law of the state applies to and in respect of a council in the same way as it applies to and in respect to a body corporate (including a corporation)*”.

4.1.2 How Council is organised

Councillors as part of a governing body

Elected representatives known as Councillors comprise the governing body of Liverpool City Council.

Council has 11 elected Councillors, including a popularly elected Mayor, with five Councillors being elected from the North Ward and five Councillors being elected from the South Ward.

Elections for the Mayor and Councillors take place every four years. Due to COVID-19 the date of the next local government elections has been pushed back and are now due in September 2021.

The Mayor can be contacted through the Council's website, click [here](#).

The names and contact details of Councillors are set out on Council's website, click [here](#).

As members of the governing body of Council, the role of Councillors is to direct and control the affairs of Council in accordance with the Act and to allocate Council's resources in the best way to benefit the local community. Councillors also have a key role in the creation and review of Council's policies, objectives and criteria relating to the exercise of Council's regulatory functions. They also review the performance of Council and its delivery of services. They approve the Community Strategic Plan, the Delivery Program, the Operational Plan and many Council policies and other plans.

Councillors as individuals

A Councillor represents the interests of ratepayers and residents, provides leadership and guidance to the community and facilitates communication between the community and Council.

The Mayor

The Mayor is a Councillor and has the same responsibilities as a Councillor. In addition the Mayor:

1. Exercises urgent policy-making decisions of the governing body of Council between meetings of the Council;
2. Exercises other functions of the Council as determined by the Council;
3. Presides at the meetings of the Council;
4. Carries out the civic and ceremonial functions of the Mayoral office.

The Chief Executive Officer

The Chief Executive Officer (the CEO) is responsible for implementing the decisions of the elected Council and is the only member of Council staff who is appointed by the Council. Under the Act, Council may delegate some of its functions to the Chief Executive Officer who may then sub-delegate these to

members of Council staff. Council may also delegate specific functions to external bodies.

Under the Act, the responsibilities of the CEO include the effective and efficient operation of the Council and its day-to-day management. The CEO can appoint, direct and dismiss staff in accordance with the organisational structure, policies and resources approved by Council.

The link between the elected Councillors and Council staff

The CEO is the link between the Mayor, Councillors and members of Council staff.

Council staff

More than 700 members of Council staff are involved with the tasks associated with the day to day functions and responsibilities of Council.

Organisational Structure

A copy of Council's Organisational Structure is attached to this policy.

4.2 HOW COUNCIL FUNCTIONS AFFECT MEMBERS OF THE PUBLIC

4.2.1 Legislation and policies

Council has responsibilities under a wide range of State and Commonwealth legislation.

As well as the [Local Government Act 1993](#), Acts having a significant impact on the work of Council include:

- a) [Companion Animals Act 1998](#) - registration and control of companion animals;
- b) [Environmental Planning and Assessment Act 1979](#) – planning and development;
- c) [Food Act 2003](#) - inspection of food and food premises;
- d) [Government Information \(Public Access\) Act 2009](#) - publication of certain information and granting of access to other information held by Council;
- e) [Impounding Act 1993](#) - impounding of articles;
- f) [Privacy and Personal Information Protection Act 1998](#) – requirements regarding the collection, storage and processing of personal information;
- g) [Protection of the Environment Operations Act 1997](#) – environmental protection;
- h) [Public Health Act 2010](#) – health inspections;
- i) [Roads Act 1993](#) – public roads;
- j) [Road Transport Act 2013](#) – load restrictions on roads, NSW Road Rules;
- k) [State Records Act 1998](#) - record keeping requirements;
- l) [Strata Schemes \(Freehold Development\) Act 1973](#) - strata plan approvals;
- m) [Swimming Pools Act 1992](#) – fencing for swimming pools;
- n) [Work Health and Safety Act 2011](#)- requirements for workplace health and safety.

It should be noted that there is other legislation that has an impact on Council, given the scope of functions of local councils and continual amendments to legislation. Therefore the above list of Acts should only be used as a guide and not as a definitive list. Copies of all NSW Acts and Regulations may be accessed on the website of the Parliamentary Counsel www.legislation.nsw.gov.au

4.2.2 Council functions affecting members of the public

As an organisation serving its local community, the various activities of Council have an impact on the public as follows:

- a) Administrative functions have an impact on the community through the efficiency and effectiveness of the services provided by Council. Council's administrative functions include employment of staff and development of management plans, financial and performance reporting.
- b) Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land. In these circumstances, only the owner of the property would be affected.
- c) Community planning and development functions affect areas such as cultural development, social planning and community profile and involve:
 - 1) Advocating and planning for the needs of our community. This includes initiating partnerships; participating on regional, State or Commonwealth working parties; and preparation and implementation of the Community Strategic Plan
 - 2) Providing support to community and sporting organisations through provision of grants, training and information
 - 3) Facilitating opportunities for people to participate in the life of the community through the conduct of a range of community events.
- d) Enforcement functions only affect those members of the public who are in breach of certain legislation. This includes matters such as the non-payment of rates and charges, unregistered dogs and parking offences;
- e) Regulatory functions involve placing restrictions and conditions on developments and buildings to ensure that they meet current standards for the safety, health and protection of people using those facilities or premises;
- f) Revenue functions affect the public directly in that revenue from rates and other charges paid by the public is used to fund services and facilities provided to the community by Council. These functions

include levying rates, charges, fees as well as borrowings and investments;

- g) Service functions affect the public because Council provides services and facilities to members of the public. These functions include the provision of services such as childcare services and libraries, halls and community centres, recreation facilities, infrastructure and the removal of garbage.

4.2.3 Community Strategic Plan – Our Home, Liverpool 2027

[Our Home, Liverpool 2027](#), is the 10-year Community Strategic Plan (CSP) for the City of Liverpool. It has been developed as a result of intensive and ongoing community consultation with more than 3500 members of the local community and business and government representatives. It is a plan for the whole city, not just for Council. It sets out the direction for all stakeholders, including government, business, the not-for-profit sector and local residents to work together to capitalise on opportunities to move the City of Liverpool forward.

Our Home, Liverpool 2027 focuses upon four key strategic directions. These directions are based upon feedback from the community, stakeholders and leaders, and incorporate local, regional, state and national priorities for Liverpool.

The 10-year plan for Liverpool correlates with the NSW State Plan 2021 and the South Western Sydney Regional Action Plan. It also encompasses the plans of Council's partners for a coordinated and integrated approach to growing Liverpool economically, environmentally, socially and culturally.

The 10-year plan is supported by the following documents that set out how Council will deliver on the community's vision and the activities and actions that will be taken:

- a) The [Delivery Program](#) outlines the principal activities that Council will deliver over four years to implement the CSP;
- b) The [Operational Plan](#) is the annual plan that describes the specific actions that Council will undertake and its budget for completing these;
- c) The [Long-Term Financial Plan](#) is about the financial resources needed over the next 10 years to ensure that the plans can be delivered, and that Council continues to operate in a financially sustainable manner;
- d) The [Workforce Management Plan](#) provides details about the four-year staffing, skills and human resources that are required within Council to achieve the outcomes documented in the plan;
- e) The [Asset Management Plan](#) is about Council's infrastructure and outlines the 10-year plan for ensuring that Council's assets are developed, managed and maintained effectively and efficiently to meet current and future community needs.

4.2.4 Personal participation

Policies which affect members of the public are adopted by resolution of the Council. Council's ordinary meetings are open to the public. Council must give public notice of many of its policies, management plans etc. and must allow for (and consider) submissions from the public.

Council's ordinary meetings are open to the public and, in accordance with the Code of Meeting Practice, any resident or ratepayer may apply to speak at the Public Forum of Council by making a representation for items on the agenda or by making a presentation about other matters under the jurisdiction of Council. The Council meetings tab on Council's webpage contains details of the processes involved with Council meetings and the standard form required for making a request to speak at a Council meeting.

To comply with the COVID-19 measures, Council meetings may be held online through livestreaming. Anyone wishing to address the meeting will need to lodge their speech in writing and email it to speakerrequests@liverpool.nsw.gov.au by 5pm the day before the Council meeting.

Council meetings are usually held on a Wednesday night at the Council Chambers at Francis Greenway Centre, 170 George Street, Liverpool, starting at 6pm. Dates of Council meetings, agendas and minutes of meeting can be found on the Council meeting tab on Council's website www.liverpool.nsw.gov.au

4.3 TYPES OF INFORMATION HELD BY COUNCIL

4.3.1 Electronic records

Council's electronic records management system called "TRIM", is Content Manager. Documents received or created are saved electronically in individual document containers.

Council also has an electronic database called "Pathways". Pathways contains information about properties (rates information, records of applications and customer requests) and is also used to log and monitor requests for Council services.

4.3.2 Physical files

Documentation received or created by Council prior to the use of TRIM and Pathways is contained in physical files. Council also creates physical files for development applications because some of the information received (such as plans) is in hard copy format and is not the type of information that can be readily backed up electronically.

If physical files are not in active use by Council staff, they are stored in Council's offsite storage facility. With legal, minute books and vital records stored offsite.

4.4 ACCESSING INFORMATION HELD BY COUNCIL

Members of the public have the right to access certain government information. There are four ways to obtain this information.

4.4.1 Open access information

Certain information, known as Open Access Information, must be disclosed by Council, unless it is not in the public interest to do so. Council's website is a central reference point where members of the public can search for information.

Examples of [open access information](#) for perusal and downloading on Council's website include:

- [Council meeting agendas and minutes](#);
- Council [policies](#), [fees](#), [forms](#) and [fact sheets](#);
- [Contracts Register](#) – The GIPA Act requires that information about Council contracts worth more than \$150,000 must be recorded in a register of government contracts which must be published on Council's website;
- [Disclosure Log](#) – provides details of information of general interest to the public that has been released under formal access applications by Council and how to obtain access to that information;
- [E-planning Portal](#) – which allows users to track development applications lodged with Council and to check zoning and site controls for particular properties.

4.4.2 Proactive release

Council proactively releases information with a commitment to providing as much information as possible for free on Council's website or by contacting Council's Customer Service Centre.

4.4.2.1 Maintaining proactive release

Council uses RelianSys software to keep track of legislation compliance obligations which must be read, understood and acknowledged by the responsible officer. It is through this process that Council ensures that open access documents are available through the Council website.

A yearly review cycle of open access documents will be done during the review of the Access to Council Information Policy.

4.4.3 Informal release of information

For information that is not readily available, members of the public can submit an [Informal Request for Information Application](#) which is available on Council's webpage. The form can be submitted electronically, by email, post or in person at Council's Customer Service Centre.

There are no application fees for informal requests for information. However, photocopying charges may apply and will be charged on completion of each application.

Council will try to deal with informal requests within 20 working days. Turnaround time also depends on whether Council has to obtain archived files from its off-site storage facility.

Note: Copyright law applies to most plans and reports. Council cannot reproduce copies of these documents without written permission of the person or company that created them (section 36 [Commonwealth Copyright Act 1969](#)). If possible, Council will attempt to provide details of copyright owners of plans and reports to assist an applicant to obtain the necessary copyright permission. Council, however, will continue to allow “view only” access for the purposes of the GIPA Act (unless the copyright owner has authorised other uses).

Section 11 of the [Dividing Fences Act 1991](#), adjoining owner details will be released if the applicant is seeking this information from Council for the purposes of serving a notice upon their neighbour to seek contribution to fencing costs along a common boundary line. The applicant will be required to complete a statutory declaration that expressly details the fact that the information sought is for fencing purposes and that the information will be used for no other purpose; before the details are released to them. This requirement is in accordance with section 57(2) of the [Privacy and Personal Information Protection Act 1998](#).

4.4.4 Formal access applications for release of information

In accordance with the GIPA Act, Council only requires a formal access application if it would not be possible or practical to manage a request informally. A [Formal Access Information Application](#) form is available on Council’s webpage. The form can be submitted electronically, by email, post or in person at Council’s Customer Service Centre.

Examples of the types of requests requiring a formal access application include requests that:

- Seek information about the personal affairs of a person other than the applicant;
- Involve third party information;
- Require Council to consult with third parties;
- Require Council to make a formal determination regarding whether or not the information should be released;
- Require the dedication of substantial Council time and resources to process.

There is a \$30.00 application fee for formal requests for information. This fee must be paid at time of lodgement and can be processed over the phone if submission is made by email.

Other processing fees may also be charged depending on the size and complexity of the request. Council’s Fees and Charges are found on the web.

4.5 COUNCIL'S PROCESS FOR DEALING WITH REQUESTS FOR INFORMATION

Requests for information are handled by Council's Governance and Legal Services Unit.

In accordance with section 57 of the GIPA Act, Council must decide upon access applications within 20 working days of their receipt, giving the applicant notice of its decision. This time period can be extended by Council in particular circumstances or by agreement with the applicant. There is no legislated time period for open and/or informal requests for information.

In line with the provisions of the GIPA Act, Council must allow access to its information, unless it determines (in the case of a particular request) there is an overriding public interest against disclosure.

For Formal GIPA applications Governance will request information to be supplied from Records and will also request records from other stakeholders as required to complete the request. **The responsibility of providing this information is incumbent on the stakeholders who hold the information.**

4.5.1 Roles and Responsibilities for an Informal GIPA application:

RESPONSIBILITY	TASK
Records	Trim request & check application is valid
Governance	Request information as required based on application from Records and Other Stakeholders
Records	Collate and provide information as requested by Governance within a timely manner
Stakeholders/subject matter experts	Governance to liaise with subject matter expert and seek confirmation that all the documents that records have collated are all that we hold and provide additional documents if necessary
Governance	Consult with third parties regarding information held by Council, review information as per GIPA Act, make a decision to release of information, Send determination to applicant

4.5.2 Roles and Responsibilities for a Formal GIPA application

RESPONSIBILITY	TASK
Records	Trim request
Governance	Check application is valid & Request information as required based on application from the Stakeholder/subject matter expert
Stakeholders/subject matter experts	Collate and provide information as requested by Governance within a timely manner
Governance	Consult with third parties regarding information held by Council, review information as per GIPA Act, make a decision to release of information, Send determination to applicant

4.5.3 Roles and Responsibilities for a Subpoena & Notice to produce:

Rule 33.6 and Rule 34.3 of the [Uniform Civil Procedure Rules](#) requires the addressee of a Subpoena or Notice to Produce to comply with the requirements of the Court Order by producing all requested documents by a specified date.

RESPONSIBILITY	TASK
Records	Trim request and bank conduct money
Legal	Check application is valid
Stakeholders/subject matter experts	Collate and provide information as requested by Legal within a timely manner
Legal	Assess the documents, claim privilege where necessary and provide the information to the Court

Legal will decide whether to object or set aside the Subpoena or Notice to Produce on the grounds that it was improperly issued or amounts to an abuse of process.

4.6 FEES AND CHARGES

The majority of access requests have no associated costs. All charges that may be incurred are listed in Council's Schedule of Fees and Charges.

4.6.1 Discounts

Processing charges must be discounted by 50% if;

- The applicant can show financial hardship (by producing evidence that they hold a concession card, are a full-time student, or are a non-profit organisation); or
- The information applied for is of special benefit to the public generally.

Council has the discretion to waive or reduce any fees or charges payable under scheme where it is considered appropriate to do so.

5. THE INFORMATION AND PRIVACY COMMISSION

5.1 The IPC Objectives

The Information and Privacy Commission (IPC) works to ensure the objectives of the NSW information access and privacy legislation are achieved by:

- a) Promoting and educating the community and agencies about people's privacy and information access rights under the legislation;
- b) Assisting government, business and the public to understand and use the legislation;
- c) Reviewing agency performance and decisions; investigation and conciliating complaints;
- d) Providing feedback about the legislation and developments in law and technology relevant to it.

5.2 Functions of the IPC

- a) Right to government information functions, in particular, oversight of the operation of the GIPA Act and the review of decisions made by agencies and Ministers under that Act;
- b) Privacy functions, conferred by the [Privacy and Personal Information Protection Act 1998](#) and the [Health Records and Information Privacy Act 2002](#).

5.3 Contact details for the Information and Privacy Commission

Email: ipcinfo@ipc.nsw.gov.au

Phone: 1800 472 679

Fax: (02) 8114 3756

Office: Level 17, 201 Elizabeth Street, Sydney NSW 2000

Post: GPO Box 7011, Sydney NSW 2001

6. RELEVANT LEGISLATIVE REQUIREMENTS

[Government Information \(Public Access\) Act 2009](#)

[Government Information \(Public Access\) Regulation 2009](#)

[Local Government Act 1993](#)

[Privacy Act \(Commonwealth\) 1988](#)

[Privacy and Personal Information Protection Act 1998](#)

[Civil Procedure Act 2005](#)

[Uniform Civil Procedure Rules 2005](#)

6.1 RELATED POLICIES & PROCEDURE REFERENCES

Access to Council Information Policy 2 November 2016

City of Sydney Access to Information Policy 11 December 2017

[Government Information \(Public Access\) Act 2009](#) No 52

6.2 THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

Internal Legal Department

Records Management Department

Internal Ombudsman

City Economy and Growth

Information and Privacy Commission NSW

AUTHORISED BY
Chief Executive Officer

EFFECTIVE FROM
14 April 2021

REVIEW DATE
14 April 2022

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1	Council	None (formerly known as Publication Guide)	29 November 2019	177424.2010
2	Chief Executive Officer	Completely reviewed	22 November 2013	138969.2013
3	Chief Executive Officer	Minor changes in Council Structure	5 November 2014	257158.2014
4	Chief Executive Officer	Minor amendments	12 November 2015	298385.2015
5	Chief Executive Officer	Minor amendments	2 November 2016	285927.2016
6	Chief Executive Officer	Completely reviewed	14 April 2021	321722.2020