6.02.8 Record keeping requirements for Councillors

Contents

Record keeping requirements for Councillors

Introduction

The value of records as a corporate asset and resource

Councillors record keeping obligations

What records are to be kept

Council is responsible for

How to capture records

Paper records

Email and electronic records

Registration of records by Council

Councillor access to records of Council

Borrowing records of Council

Unauthorised access or disclosure of Council records
Introduction

Councillors have organisational and legislative responsibilities to maintain accurate records of correspondence, documents and discussions they are involved with as part of their Council duties.

Transparency and accountability are fundamental characteristics of good governance. Failure to keep adequate records of Council decision making processes and activities can lead to lack of accountability and a loss of public confidence.

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)(c)). 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 a 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) State Records Act 1998). The Act also requires public officials to “make and keep full and accurate records” of their business activities.

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

- correspondence regarding building and development matters
- a petition received from a community group
- declarations concerning a Councillor’s pecuniary interests
- speech notes made for addresses given at official Council events, and
- complaints by rate payers about Council services

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
- personal records of councillors such as personal emails from friends that are unrelated to Council business

The NSW Public Sector Code of Conduct also requires that public officials should “maintain adequate documentation to support any decision made” in the performance of their duties.

The Ombudsman’s Good Conduct and Administrative Practice Guidelines for Public Authorities and Officials states that public officials must make and create records to support accountability and corporate memory. It encourages recordkeeping to be seen as a normal and natural part of work by public officials.

The value of records as a corporate asset and resource

Records are a vital asset. 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 Government, the Council, Councillors and its clients and citizens.
• Enable Council to meet legislative and other regulatory requirements
• Support better performance of business activities throughout Council
• Ensure documentation or organisational activity, development and achievement
• Assist in better sharing of recorded information

A small percentage of records created and received by Councillors will become archives, part of the cultural resources of the State. Therefore it is essential that Councillors ensure their recordkeeping responsibilities are met.

Councillors record keeping obligations

The record keeping obligations of Councillors include:

• Making records to support the conduct of Council business activities.
• Creating records that would not otherwise be created.
• Documenting activities that do not by themselves result in the creation of records, for example, meetings, telephone discussions, conferences and oral decisions.
• Providing records for registration in Council’s electronic recordkeeping system.

Documenting decisions and their reasons enables Councillors to be able to provide an explanation or justification, and accept responsibility for decisions, events or transactions.

Failure to capture records into recordkeeping systems can result in records which cannot be located when required.

Original records are not to be kept in Councillors own private store, outside of Council’s recordkeeping system as they are a corporate asset. It is important that they are available to all other officers who need them.

What records are to be kept

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

• providing advice, instructions or recommendations
• giving permissions and consents
• making decisions, commitments or agreements binding for the Councillor or Council.

In addition, Councillors should capture:

• 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.

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) are to be saved into official Council recordkeeping systems:-
- As soon as possible after the event to ensure the information is accurate.
- So that Council can assist with their long term management.

The Records Department will then ensure that the correspondence is recorded in accordance with recordkeeping procedures to maintain system integrity and to assist in researching information.

It is the responsibility of all Councillors to ensure the registration of corporate documents into the corporate recordkeeping system (Content Manager) as required by legislation and Council Policy.

**Paper records**

Records created or received in paper format should be forwarded to Council for registration in Council’s corporate record keeping system, Content Manager. If records are of a sensitive or confidential nature, the Councillor should alert relevant staff to this fact so that appropriate security controls can be applied. Refer all requests to the Executive Manager | People and Governance.

**Email and electronic records**

Email and other electronic records should be forwarded to Council promptly for registration in Council’s corporate record keeping system, Content Manager. If records are of a sensitive or confidential nature, the Councillor should alert Records staff to this fact so that appropriate security controls can be applied. All questions regarding electronic registration of records should be made to the Executive Manager | People and Governance.

All emails, letters or file notes etc. to be sent to Council’s Records Department via email to council@begavalley.nsw.gov.au.

**Registration of records by Council**

Records received from Councillors for registration will be handled in accordance with the Council’s Records Management Procedures. These are based on guidelines established by the State Records Authority of NSW and are in accordance with the *State Records Act 1998*.

**Councillor access to records of Council**

Councillors have a right to information held by Council which will help them make an informed decision on matters under their consideration, providing the information is relevant and appropriate to the discharge of their obligations. Rights are restricted to matters before Council or due to be listed for which there is notification, reasonable notice for administrative requirements, and requirements set out in the Council’s Code of Conduct.

Councillors wishing to access records should make application to the Executive Manager | People and Governance.

Councillors who are unable to obtain information they seek from Council can ask for review in accordance with s.12A of the *Local Government Act 1993*. Requests for review should be directed to the Manager Workforce & Administration.

Councillors (like other members of the community) can also apply to access certain information under various Acts such as the *Local Government Act 1993* (s.12), and the Government Information (Public Access) Act (GIPA).

More information on gaining access to Council records can be obtained from the Executive Manager | People and Governance.

**Borrowing records of Council**

If a Councillor needs to borrow a Council record in the course of their duties for Council, they should refer their request to the Council’s Executive Manager | People and Governance.
Unauthorised access or disclosure of Council records

Councillors are bound by the Council’s Code of Conduct not to:

- attempt to access records they are unauthorised 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.
- Cause release of information due to inappropriate destruction methods, and
- document disposal decisions for accountability purposes.