

FREEDOM OF INFORMATION POLICY

Policy Number:	2.3.2
Approved by	Chief Executive Officer
Date Approved/Effective	17 December 2019
Date of Next Review:	1 October 2020
Related Policies:	Records Management Privacy & Data Protection Wellington Shire Council Freedom of Information Procedures Manual Freedom of Information Flowchart
Applicable to Unit(s):	Organisation
Responsible Officer:	Manager Information Services
Statutory Reference:	<i>Freedom of Information Act 1982 (Vic) & Professional Standards</i> <i>Local Government Act 1989</i> <i>Privacy & Data Protection Act 2014</i> <i>Public Records Act 1973</i> <i>Health Records</i>

OVERVIEW

The purpose of Victoria's *Freedom of Information Act 1982* is to extend as far as possible the right of the community to access information held by government departments, local councils, Ministers and other bodies subject to Freedom of Information legislation.

In general, a person has the right to request access to documents of agencies and official documents of Ministers, other than exempt documents.

Ministers and agencies are required to administer the Act with a view to making the maximum amount of government information promptly and inexpensively available to the public.

THE POLICY

This Policy aims to ensure compliance with Wellington Shire Council's obligations under the *Freedom of Information Act 1982* and promotes a consistent approach to the handling of applications under that Act.

The Policy applies to all Councillors, Council employees, volunteers, contractors, consultants and volunteers.

The *Freedom of Information Act 1982* places statutory obligations upon agencies to assist applicants to exercise their rights under the *Freedom of Information Act* (the Act).

Wellington Shire Council ensures the Act is administered consistently by processing requests conforming with the Professional Standards which have been prepared in accordance with Part 1B of the *Freedom of Information Act 1982* (Vic). The standards are binding and ensure agencies continue to facilitate and promote access to government information promptly and at the lowest reasonable cost.

1. DEFINITIONS

Information	In this context refers to a document
Document	In the context of Freedom of Information, a document can be structured information or data regardless of format that forms a Record. Examples can include maps, graphs, drawings, photographs, a label or other attachment, a disc, tape, soundtrack, or a film, as well as typed or handwritten Information held on computer disk or in a data base also fits the definition of a document.
Decision	<p>In this context refers to the decision by the Freedom of Information Officer on the request.</p> <p>All decisions must be made by an officer authorised by the principal officer of the agency (Chief Executive Officer) pursuant to section 26 of the Freedom of Information Act 1982.</p>
Exempt	In this context refers to documents that are restricted from access as outlined in Part IV of the Freedom of Information Act.
Access	In this context refers to entitlement to view or obtain a copy of requested documents.
Release	In this context refers to the provision of documents by the agency.
Review	In this context refers to the re-evaluation of a Freedom of Information decision by a third party (Office of the Victorian Information Commissioner / VCAT).

2. APPLICATIONS AND FEES

Any person may submit an application for access to a document or documents under the Act. A company or other organisation cannot make a request; but an individual employee or member of a company or organisation can do so.

Access to documents can be granted or denied in full or in part. If certain information in a document is regarded as exempt from disclosure, according to the categories of exceptions specified by the Act, the exempt material may be redacted from the copies which are released.

Council's Freedom of Information Officer must advise the applicant if a document has been lost, has never existed or has been destroyed.

Freedom of Information requests must be in writing and accompanied by an application fee unless the applicant can demonstrate hardship or concession status enabling the fee to be waived.

The Freedom of Information Officer can notify the applicant that the 30 days in which to make a decision has been extended by up to 15 days due to mandatory consultation. This timeframe can be further extended with consent from the applicant.

3. ACCESS OUTSIDE OF THE FREEDOM OF INFORMATION ACT

Information which can be obtained outside of the *Freedom of Information Act*, either through another legislated process, is publicly available or obtainable through standard administrative practices, will be processed outside of the *Freedom of Information Act 1982*.

4. EXEMPTIONS

Under the *Freedom of Information Act* a person does not have the right to obtain publications which are available for a fee from Council, documents which are held by the Public Record Office of Victoria or documents that are readily available to the public.

For a complete listing and explanation of the exemptions, a link to the *Freedom of Information Act* exists on Wellington Shire Council's Freedom of Information Part 11 Statement available on Council's website.

5. TRAINING / ADVICE

The Coordinator Information Management is directly responsible for coordinating, delivering and attending relevant Freedom of Information training, request processing and making decisions, as authorised, in accordance with the Act.

The Coordinator is also responsible for creating and maintaining the Freedom of Information Policy, FOI Part 11 Statement, procedures and responding to enquiries. An e-learning training course titled Record Keeping and Privacy, which incorporates FOI, is available on Wellington Shire Council's Learning & Development Software.

6. OFFICE OF THE VICTORIAN INFORMATION COMMISSIONER (OVIC)

The Victorian Government has created an Office of the Victorian Information Commissioner (OVIC) as a primary regulator and source of independent advice to the community and the Victorian Government about how the public sector collects, uses and shares information. OVIC commenced operating on 1 September 2017. www.ovic.vic.gov.au

The functions of the Victorian Information Commissioner are set out in the Freedom of Information Act 1982 (FOI Act) the Privacy and Data Protection Act 2014 (PDP Act) and on the OVIC Website.

7. REVIEWS

The Information Commissioner is able to review Wellington Shire Council's decisions on applications lodged on or after 1 September 2017. Applications for a review of a FOI decision must be made to OVIC within 28 days of receiving the decision from Council.

The Commissioner can review decisions relating to:

- The refusal of access to a document under the *Freedom of Information Act* 1982; deferring access to a document;
- no waiver or reduction of an application fee; or
- refusal to amend a personal record.

8. COMPLAINTS

Complaints can be made about Ministers and agencies.

You can complain to the Office of the Victorian Information Commissioner about an action taken, or failed to be taken, by an agency when performing its functions or meeting its obligations under the FOI Act. This may include:

- a delay in handling your request;
- a decision that a requested document does not exist or cannot be found; or
- an action taken or failed to be taken by a principal officer in the performance or purported performance of their functions and obligations under Part II (Publication of certain documents and information).

A complaint must be made within 60 days of the conduct you are complaining about, unless the delay was due to an action of the agency (Wellington Shire Council).

Detailed information on how to make a complaint can be <https://ovic.vic.gov.au>

9. MAKING AN APPEAL TO THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

Council, the Freedom of Information applicant or other parties may appeal the Information Commissioner's review decision by appealing to the Victorian Civil and Administrative Tribunal (VCAT).

Applications for Appeal must be lodged to the Victorian Civil and Administrative Tribunal within 60 days of receipt of the Commissioner's written decision.

An appeal cannot be made to VCAT regarding the outcome of a complaint.

Procedures and Attachments:

- Wellington Shire Council's Freedom of Information Part 11 Statement
- Freedom of Information Flow Chart – Information for Agencies
- Wellington Shire Council's Freedom of Information Procedures Manual

Further Information:

Further information including guidelines on how to submit an application, request processing, costs and reviews is available on Wellington Shire Council's website www.wellington.vic.gov.au

A Freedom of Information application can be downloaded from Council's website.

For further enquiries contact Wellington Shire Council's Freedom of Information Officer by emailing foi@wellington.vic.gov.au or phoning 1300 366 244.

Detailed information regarding Freedom of Information is also available on the Office of the Victorian Information Commissioner's website <https://ovic.vic.gov.au>

Related Documents

Type:	Details:
Procedure	Nil
Strategy	Nil