

IM 1 – Record Keeping Guidelines for Elected Members

1 Objectives

The purpose of these guidelines is to assist Elected Members to manage the official records created or received by them in the course of their role as an Elected Member with the Shire of Bridgetown-Greenbushes. It also aims at helping Elected Members comply with their responsibilities under the *State Records Act 2000*.

2 Definitions

2.1 Government organisation employee

- (a) A person who, whether or not an employee, alone or with others governs, controls or manages a government organisation;
- (b) A person who, under the *Public Sector Management Act 1994*, is a public service officer of a government organisation; or
- (c) A person who is engaged by a government organisation, whether under a contract for services or otherwise

and includes, in the case of a government organisation referred to in item 5 or 6 of Schedule 1, a ministerial officer (as defined in the *Public Sector Management Act 1994*) assisting the organisation. (*State Records Act 2000*)

2.2 Government Record

A record created or received by or for a government organisation or a government organisation employee or contractor in the course of the work for the organization (*State Records Act 2000*)

2.3 Record

Any record of information however recorded and included:

- (a) anything on which there is writing or Braille;
- (b) a map plan, diagram or graph;
- (c) a drawing, pictorial or graphic work, or photograph;
- (d) anything on which there are figures, marks, perforations, or symbols, having a meaning for person qualified to interpret them;
- (e) anything from which images, sounds or writing can be reproduced with or without the aid of anything else; and
- (f) anything on which information has been stored or recorded, either mechanically, mechanically, or electronically (*State Records Act 2000*)

2.4 Records of continuing value

These are those records, which contain information that is of **administrative, legal, evidential, fiscal or historical value** to the local government. These records may be referred to for many purposes, including the need to:

- Document elected members' decisions, directives, reasons and actions;
- Check an interpretation of the local government policy or the rationale behind it
- Check the facts on a particular case or provide information

- Monitor progress and coordination of responses to issues; and
- Document formal communications.

2.5 Record of temporary value

These are those records, which have no continuing value and are considered of interest or used for a short time only, for example, a few hours or a few days.

3 Policy

3.1 Applicability of the State Records Act to elected Members

It is the view of the Crown Solicitor's Office that although Elected Members are not employees, they are clearly persons who govern, control and manage the local government in accordance with the Local Government Act 1995. Therefore, Elected Members fall under the definition of the term "government organisation employee" as outlined in section 3 of the State Records Act 2000.

"Accordingly, records created or received by (Elected Members) in the course of their capacity as office holders for the local government constitute government records."

The State Records Commission has provided further clarification of the extent that the State Records Act applies to Elected Members in the following statement:

"In relation to the record keeping requirements of Local Government Elected Members, records must be created and kept which properly and adequately record the performance of member functions arising from their participation in the decision making processes for council and Committees of Council and Committees of council by the Local Government.

Activities or transactions which stem from the performance of other roles by Local Government Elected Members that are not directly relevant to the decision making processes of Council or Committees of council are not subject to mandatory record keeping requirements. Accordingly, the creation and retention of records relating to these activities or transactions is at the discretion of the local government".

3.2 Elected Members Records

Although records that are not directly relevant to Council's decision making processes may be considered with discretion, records created or received by Elected Members can still be divided into two broad groups – those of continuing value to the local government and those of temporary value.

3.3 How to Deal With Specific Kinds of Records

3.3.1 Diaries/Appointment Books/Calendars

Diaries, appointment books and calendars are generally used to record appointments. They may also be used to record messages and notes, some of which may only be an aide memoir of a routine nature, and some of which may be of significance to the conduct of local government business.

Guidelines

Elected member's diaries, appointments books and calendars that are used to record information such as dates and times of meetings and appointments or to record notes and messages generally, have NO continuing value and may be destroyed when reference to them ceases. However, it is a matter of discretion to be judged by the elected member based on whether the information is:

- relevant;
- worthy of retention; and
- has not already been recorded elsewhere in the record keeping system.

3.3.2 Telephone and Other Verbal Conversations

Elected members' may have telephone or face-to-face conversations at any time on a variety of matters. Some conversations may involve the relay of information, or involve matters, of significance to the conduct of local government business. These conversations should be documented in an appropriate format.

Other conversations may only be very basic or routine in nature, such as the issuing or receiving of basic instruction or information, and need not be documented.

Guidelines

- Conversations involving the exchange of routine or simple administrative instruction or information; and
- Conversations that do not relate to the business functions of the local government if they are documented in a written or other form have NO continuing value and may be destroyed when reference to them ceases.
- Conversations which relate to the business functions of the local government involving the issuing of directives, proposals, recommendations, definitions or interpretations from the elected member to another party or vice versa; and
- Conversations that are part of an actual business transaction itself, or have policy/procedure implications, or otherwise identified as being significant to the conduct of the local government's business if they are documented in written or other form, may have continuing value and at the discretion of the elected member should be forwarded to the Record Officer for incorporation into the record keeping system

The appropriate format for documenting these conversations is a File Note, using the form attached (Appendix 1).

3.3.3 Lobbying

Lobbying is the activity of ratepayers or members of the community attempting to influence the Council through representations to elected members, and may include one or more elected members lobbying other elected members.

3.3.4 Guidelines

Records, such as correspondence or petitions, relating to lobbying matters regardless of whether the lobbying itself is of local government or community interest may have continuing value and at the discretion of the elected member should be forwarded to the Record Officer for incorporation into the record keeping system.

3.3.5 Electioneering Material

Electioneering material or records created or received by an elected member in regard to electioneering are private records of the elected member, and do not need to be forwarded to the local government office.

3.3.6 Confidential Documents/Records

If the elected member believes that some of the documentation forwarded to the local government office for incorporation into the record keeping system is of a highly sensitive or confidential nature, the elected member should advise the local government to treat the information as confidential and restrict access to those records.

3.3.7 Agendas/Minutes/Information Brochures

Notes that are written on Council Agendas, Council Minutes or Information Brochures and are considered relevant to the decision made by council may have continuing value and at the discretion of the elected member should be forwarded to the Record Officer for incorporation into the record keeping system.

A copy of the notes can be provided to the elected member for their reference, if required.

3.3.8 Correspondence

Council records may include any correspondence received or sent by elected members in any format (eg. By post, fax, e-mail, courier, hand delivered) whether received or sent at the Council.

Guidelines

- Correspondence addressed to elected members at the Council office will be opened by designated officer/s and if the items are assumed to have continuing value they will be incorporated into the record keeping system with a copy being provided to the elected member.
- Correspondence addressed to elected members at the Council office and which is marked “private”, Confidential”, “personal” “himself/herself” etcetera will be opened and recorded by the designated officer/s. After the designated officer/s has entered the correspondence into the inward mail register the correspondence will be resealed and forward to the appropriate elected member.
- Where an elected member(s) receives correspondence (written or email) from a member of the public raising questions or concerns about an operational matter the elected member(s) will ensure that a copy of the correspondence is forwarded to the CEO to enable organisation response to be provided.

3.3.9 Destruction Methods

The destruction of records must be done completely so that no information is retrievable.

Elected members may, at any time or at the end of their term, provide their records to the Record Officer for destruction.

4 Applicable Legislation and Documents

Statutory Power <i>(Acts, Regulations, Local Laws, TPS)</i>	<i>State Records Act 2000 Evidence Act 1906 Limitation Act 1935 Freedom of Information 1992 Local Government Act 1995 Criminal Code 1913 (Section 85) Electronic Transactions Act 2000 Privacy Act 1988</i>
Shire Policies	IM 2 – Records Management
Related Documents	Record Keeping Plan 2020
Related Procedure	N/A

5 Administration

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