

FREEDOM OF INFORMATION POLICY

Policy Number:	2.3.2
Approved by:	Chief Executive Officer
Date Approved:	December 2021
Date of Next Review:	December 2022
Applicable to Unit(s):	Organisation
Responsible Officer:	Manager Information Services
Related Policies:	Records Management Policy Privacy and Data Protection Policy Public Transparency Policy
Related Documents:	OVIC Professional Standards Wellington Shire Council Freedom of Information Procedures Wellington Shire Council FOI Part II Statement
Statutory Reference:	<i>Freedom of Information Act 1982</i> <i>Health Records Act 2001</i> <i>Local Government Act 2020</i> <i>Ombudsman Act 1973</i> <i>Privacy and Data Protection Act 2014</i> <i>Public Records Act 1973</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 1982* (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*. The standards are binding and ensure agencies continue to facilitate and promote access to government information within legislated timeframes 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, CCTV footage, 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 <i>Freedom of Information Act 1982</i>.</p>
Exempt	In this context refers to documents that are restricted from access as outlined in Part IV of the <i>Freedom of Information Act 1982</i> .
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 to the applicant.
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.

Access charges also apply to requests and are calculated by the Freedom of Information Officer in accordance with the *Freedom of Information (Access Charges) Regulations 2014*. Charges are calculated for time spent searching for documents, supervision times, photocopying and other charges which may be applicable to a request. In some instances a \$25.00 or 50% deposit is required prior to Council processing a request.

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 third party 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 1982*, 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*.

Wellington Shire Council's Part II Statement is a requirement under section 7 of the *Freedom of Information Act 1982*. The *Act* specifies a set of statements which Wellington Shire Council must publish describing its powers and functions, the documents and information maintained and the ways in which people can view or access copies.

4. EXEMPTIONS

Under the *Freedom of Information Act 1982*, 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 1982* exists on Wellington Shire Council's Freedom of Information Part II 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, attending network meetings, 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 II 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.

The Act enables the Information Commissioner to develop Standards relating to the conduct of an agency in performing its functions under the Act and the administration and operation of the Act by an agency. Council processes requests in accordance with The Professional Standards.

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 <https://ovic.vic.gov.au>.

7. REVIEWS

The Information Commissioner can review Wellington Shire Council's decisions on applications. Applications for a review of a FOI decision must be made by the applicant to OVIC within 28 days of receiving the decision from Council.

The Commissioner can make an independent review on decisions relating to:

- the refusal of access to a document in full or in part 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 record containing your personal information.

8. COMPLAINTS

The Office of the Victorian Information Commissioner can investigate complaints about certain actions taken or actions failed to be taken by an agency under the *Freedom of Information Act 1982*.

You can complain to the Information Commissioner if there has been:

- a delay in handling your request;
- a decision that a requested document does not exist or cannot be found; or
- a failure by the principal officer (CEO) or any other officer of an agency to comply with the Professional Standards in performing functions under the FOI Act, or
- a decision to release personal or business information.

For a complaint to be valid, it must be made within 60 days of the conduct you are complaining about, be in writing, identify the relevant agency, and describe the nature of your complaint.

Detailed information on how to make a complaint, request a request and other information relating to Freedom of Information is available on the OVIC website <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 Guidelines:

- Wellington Shire Council's Freedom of Information Part II Statement
- 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>

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.