

Records Management Policy

Minute Book Number	MB
Classification	Administration – Governance
Date Approved	17 August 2015
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Responsible Officer	Manager Governance and Community Services
Council File Reference	9.63.1.1
Applicable Legislation	Local Government Act 1999 & Regulations State Records Act 1997 Freedom of Information Act 1991 Independent Commissioner Against Corruption Act 2012 Ombudsman Act 1972

1. Purpose

- 1.1. The Records Management Policy (Policy) applies to all Council Members and employees of the Clare & Gilbert Valleys Council (Council).
- 1.2. The purpose of the Policy outlines and directs the practices of Council Members and employees of Council in relation to the management of their records in accordance with the State Records Act 1997.

Records of Council are created and received as a result of interaction with residents and ratepayers, other government departments and businesses.

- 1.3. Adherence to this Policy will ensure Council Members and employees are able to:
 - meet their legislative responsibilities
 - provide evidence of business transactions and accountability
 - validate and support their decisions and actions
 - protect their interests and those of Council.
- 1.4. The Policy specifies how Council Members and employees will deal with official records which are critical to establish the history, corporate memory, build context, meet legislative requirements and to ensure the transparency, accountability and security of Council.

2. Scope

2.1 The Policy applies to all:

- Records created and received by Council Members in the conduct of their role, including emails and letters;
- Records in all formats and media (paper and digital).

3. Definitions

3.1 The definitions within the Policy have been taken from the Glossary of Records Management Terms produced by State Records of South Australia.

- **Access** - Right, opportunity, means of finding, using or retrieving information.
- **Capture** – Deliberate action that results in the registration of a record into a recordkeeping system assigning a unique identity on its entry into an Electronic Document Records Management System (EDRMS).
- **Council Employees** – Includes persons employed by the Council, volunteers, trainees/apprentices, work experience placements, consultants and contractors, and other authorised personnel offered access to Council's resources.
- **Destruction** – Process of eliminating or deleting records, beyond any possible reconstruction.
- **Digital Documents/Records** - A record created, and/or maintained by means of digital computer technology. Includes records that are 'born digital' or have undergone conversion from a non-digital format (ie digitised using OCR or imaging technology).
- **Disposal** – The range of processes associated with implementing records retention, destruction or transfer decisions, which are documented in disposal authorities or other instruments.
- **Document(s)** – Structured units of recorded information, published or unpublished, in hard copy or electronic form, and managed as discrete units in information systems.
- **Council Member** – A person appointed or elected as a councillor of a Council under the Local Government Act 1999. Councillors play a very important policy-making role, requiring the identification of community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating resources.
- **Electronic Document Records Management System (EDRMS)** - An automated system used to manage the creation, use, management and disposal of physical and electronically created documents and records for the purposes of supporting the creation, revision and management of digital documents, improving an organisations work-flow and providing evidence of business activities.
- **File** – An organised unit of documents accumulated during current use and kept together because they deal with the same subject, activity or transaction.

- **Record** – Information created, received and maintained as evidence and information by Council, in the pursuance of legal obligations or in the transaction of business (e.g. email, letter, image). State Records Act 1997 defines an ‘official record’ as a record made or received by Council in the conduct of its business.
- **Stakeholder** - Client, customer, organisation, other local or state government department who conducts business and/or has a relationship with Council.

4. Policy Statement

- 4.1 Activities, conducted in the course of their duties and on behalf of Council by Members and employees of Clare & Gilbert Valleys Council will be documented, recorded and managed to protect the integrity, enhance the efficiency, preserve the history and provide a business context of Council.
- 4.2 However, records that are merely transitory, ephemeral, personal or private in nature will fall outside the definition of “official records”.
- 4.3 The policy applies to the records and information created and received by Council Members and employees.

5. Legislative Requirements

- 5.1 Council Members and employees have an obligation under the *State Records Act 1997*, *Local Government Act 1999*, the *Freedom of Information Act 1991* and other relevant legislation to create and manage documents and records.
- 5.2 The Policy is to be read and implemented in conjunction with relevant legislation, standards and policies, including:
- The State Records Act 1997
 - Freedom of Information Act 1991
 - Local Government Act 1999
 - Australian Records Management Standard AS ISO 15489-2002
 - Clare & Gilbert Valleys Council Privacy Statement
 - Clare & Gilbert Valleys Records Management Practices Manual

State Records Act 1997

Council Members and employees are subject to the *State Records Act 1997*, and as such are required to manage their records in accordance with the provisions of the Act.

Under the *State Records Act 1997 - Section 17 - Damaging etc of official records.*

- (1) If a person, knowing that he or she does not have proper authority to do so, intentionally:
 - (a) damages or alters an official record; or
 - (b) disposes of an official record or removes an official record from official custody, the person commits an offence

Maximum penalty: \$10,000 or imprisonment for 2 years.

Freedom of Information Act 1991

The Freedom of Information Act 1991 defines the rights of the public to obtain access to information held by the Council.

In certain circumstances Council may refuse access to a document (eg an exempt document under Schedule 1 of the Freedom of Information Act 1991).

Local Government Act 1999

The Local Government Act 1999 assigns the overall responsibility and accountability for the proper management of official records to Councils Chief Executive Officer. The Act has specific requirements relating to the creation and access of information.

Clare & Gilbert Valleys Council Privacy Statement

The Council is committed to a culture that protects privacy and endeavours to protect the personal information it collects, stores, discloses and uses. Council aims to achieve a 'best practice' approach to the management of personal information.

Clare & Gilbert Valleys Council Records Management Practices Manual

Council is committed to ensuring compliance with records management legislation whilst striving towards best practice and cutting edge technologies.

The Practices Manual applies to all employees and volunteers of Council and guides their responsibilities.

6. Application of Policy

- 6.1 It is the responsibility of all Council Members to adhere to this Policy. Refer LGA Circular 22.4 April 2006 confirms correspondence received and created by Council Members is official Council records. (*Attached.*)

6.2 Attendance as required at Council Member Records Management Awareness training which will be delivered by an authorised and appropriately qualified Records Management staff member or external consultant.

6.3 Council Members and employees are responsible for ensuring:

6.3.1 Record Creation

- (1) Records created within the conduct of their role at Clare & Gilbert Valleys Council are the property of Council and therefore must be managed and cared for in accordance with the Policy, associated policies and legislation
- (2) Records are created in all appropriate circumstances immediately, or as soon as practicable, after an event, decision, agreement or business action
- (3) Records should be complete, accurate and meaningful to provide a valid and reliable account of what they document.

6.3.2 Records Capture

- (1) Electronic records, such as emails should be copied or forwarded upon creation or receipt to admin@cgvc.sa.gov.au. These records will then be captured into the corporate EDRMS, LGE Records Management.
- (2) Council Members should not be retaining hard copy original documentation. All original hard copy documentation including records handed to Council Members must be forwarded to the Manager Governance & Community Services at Council Meetings or Workshops as soon as practicable. These records will then be captured into the corporate EDRMS, LGE Records Management.

6.3.3 Records Retention and Disposal

- (1) There is to be no intentional deletion, destruction or alteration of official records. Records are only to be disposed of in accordance with the provisions of the State Records Act 1997 by the authorised Records Management Officer
- (2) The illegal destruction of records carries penalties under the State Records Act 1997. If prosecuted, penalties will apply to the individual Council Members and employees involved.
- (3) The Mayor's diary will be retained as a permanent record.

6.3.4 Access and Privacy

- (1) Access to Council held information by Council Members will need to be requested through the Chief Executive Officer in accordance with Section 61 of the Local Government Act 1999.
- (2) Records may contain information that is confidential in nature and should not be divulged to other parties.

6.3.5 Public Access to Information

- (1) Requests by the public or media for access to Council information and records are to be managed by a Freedom of Information Accredited Officer. Access by the public or media to information is protected by provisions in the Freedom of Information Act 1991 and advice should be sought from the Chief Executive Officer or a Freedom of Information Accredited Officer when enquiries are received prior to allowing access.

6.3.6 Mail Opening

- (1) All mail coming into Council will be opened by Customer Service staff. Mail marked Private and Confidential, will be opened by the Records Management Officer.

6.3.7 Council Systems

- (1) The Mayor and Council Members will only utilise Council systems for official correspondence created or received in the conduct of their role in Council, ie personal email accounts will not be used.

6.3.8 Integrity of Information

- (1) Under the Freedom of Information Act 1991, Ombudsman's investigations and legal discovery, the public may apply to access Council records. It is important that a professional approach be taken in relation to documenting and recording all forms of communication with staff, Council Members and customers, actions, transactions, decisions and agreements.
- (2) Comments of a personal or derogatory nature should not be documented in or on records, including emails, under any circumstance. This includes comments on "post it" notes as they become part of the official record.

7. Review

The Policy will be reviewed in line with Council's policies and procedures, or as required by legislation.

8. Access to the Policy

The Policy is available for public inspection on Council's website www.claregilbertvalleys.sa.gov.au and Clare & Gilbert Valleys Council principal office at 4 Gleeson Street, Clare during normal business hours.



Council Members Records - State Records - April 2006 - Circular 22.4

To **Chief Executive Officer** Date **29 May 2006**
Corporate Services Staff
Elected Members
Information Technology Staff

Contact **Chris Russell**
 Ph: 08 8224 2030
 Email: chris.russell@lga.sa.gov.au

Response No
 Required

Summary **State Records of South Australia has written to the LGA confirming that records received or created by Council Members are official records which must be maintained under the State Records Act 1997. A copy of the letter is attached.**

In October 2005 the LGA released Circular 40.3 which contained a model policy for Electronic Communication Facilities and a model policy and procedure for Records Management.

The model documents affirm that Councils have an obligation to maintain all of their official records under the State Records Act 1997. Official records include any record created, sent, received, forwarded or transmitted by Council staff and/or Council Members in the performance and discharge of their functions and roles.

The LGA has recently received a letter from the Director, State Records of South Australia confirming that Councils and Council Members must maintain official records. A copy of the letter is attached here.

[State Records - April 2006](#)  (87 kb) (attached)

Councils are encouraged to adopt a policy and/or procedure to ensure good governance practices in relation to records management and electronic communication facilities for Council Members and staff.

Enquiries regarding Council Members' records, policies and procedures can be directed to Jill Hoare at the LGA on 8224 2063 or email jill.hoare@lga.sa.gov.au

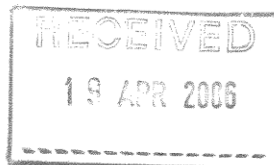
GPO Box 2693, Adelaide SA 5001 | Phone: 8224 2000 | Fax: 8232 6336 | Enquiries: lgasa@lga.sa.gov.au

**Government of South Australia**Department for Administrative
and Information Services

File Reference: 2005/00324

12 April 2006

Wendy Campana
Chief Executive
Local Government Association
GPO 2693
Adelaide 5001

**State Records**

GPO Box 1072
Adelaide SA 5001
DX 467, Adelaide
Tel 08 8226 7750
Fax 08 8204 8777
www.archives.sa.gov.au

Dear Wendy,

RE: ELECTED MEMBERS RECORDS

State Records has received a number of enquiries from Local Government authorities recently regarding the application of the *State Records Act 1997* to elected Local Government councillor's records. The crux of the query relates to whether the records elected members receive or create, in their capacity as a councillor, are considered official records and as such must be managed according to the provisions of the *State Records Act 1997*.

State Records has received advice from the Crown Solicitor's Office that concludes the records received and created by elected members are official records. State Records understands many Local Government authorities believe *State Records Act 1997 Section 3(1)b* exempts councils or councillors from maintaining these records; the Crown advice differs. Section 3(1)b refers only to State Parliamentarians and does not extend to councils or councillors. The Governor would need to have excluded councils or councillors from the operation of the Act by regulation, however no such regulation has been made. Consequently councils and councillors need to comply with this requirement.

I would be grateful for your assistance to notify all local authorities of this advice to enable them to inform councillors of this legislative obligation and facilitate the amendment of each council's recordkeeping policies, procedures, tools and systems to accommodate this requirement.

Should you require further information or assistance addressing this issue, please contact Greg Hart on telephone number 8204 8768.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Terry Ryan".

Terry Ryan
Director **State Records SA**
STATE RECORDS OF SOUTH AUSTRALIA