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| Local Government Act 2020 – Principles Public Transparency |

The *Local Government Act 2020* is a principles-based Act, removing unnecessary regulatory and legislative prescription.

## Public transparency

Transparency is a fundamental tenet of democratic governance. Openness, accountability and honesty are essential to build high levels of accountability and trust amongst citizens and enable fully informed engagement in the democratic process. Without transparency effective community engagement, planning, financial management and any number of other council responsibilities cannot be properly performed.

One of the overarching principles of the new *Local Government Act 2020* (the Act) is that “the transparency of Council decisions, actions and information is to be ensured” (s. 9(2)(i)).

Various sections of the previous Act and regulations specified transparency and consultation requirements including about the timing and location of council meeting notices, council websites, and the information to be published on them, documents a council must make available for public inspection, amongst many other things. This will no longer be the case, councils must develop their own policies, in line with these underpinning principles.

The use of prescription as the basis for a council’s disclosure and engagement with their community has significant disadvantages. It encourages a compliance approach where entities may consider that it is sufficient to tick legal boxes. Sometimes compliance-based rules can encourage an attitude of avoidance.

Under the previous Act certain matters were automatically considered confidential – this included personnel information, contracts, and matters that might prejudice the council or any person. The new Act assumes, instead, that all matters must be public, except in very specific and limited circumstances. Detailed requirements included in the old Act are replaced as far as possible by high-level principles about transparency in decision making and community accountability.

While many of the matters that could be considered confidential under the old act will remain so under the new Act, this is now limited to matters that are either:

* confidential by virtue of the *Local Government Act 2020* or any other Act, or
* public availability of the information would be contrary to the public interest.

Councils should note that the public transparency principles, at section 58 of the Act, must be applied to all aspects of a council’s operations and decision making. Of particular note is the circumstances in which a council meeting may be closed to the public, see section 66 Meetings to be open to the public unless specified circumstances apply.

It must also be noted that simply having council information available to the public will not meet the requirements of the Act. Council information must be understandable and accessible to members of a council’s community and public awareness of the availability of this information must be facilitated.

Transparency and accountability will strengthen governance and accountability across the sector, so that the community can have confidence in the way their council works.

## What it means

The Act says that a council must adopt and maintain a public transparency policy. The policy must, amongst other things, give effect to the public transparency principles listed at section 58 of the Act:

* Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
* Council information must be publicly available unless—
* the information is confidential by virtue of this Act or any other Act; or
* public availability of the information would be contrary to the public interest;
* Council information must be understandable and accessible to members of the municipal community;
* public awareness of the availability of Council information must be facilitated.

Additionally, council information must be understandable and accessible; community members must understand how they can access council information.

## Expectation

Councils should have regard to the principles underpinning Victoria’s *Freedom of Information Act 1982*. This Act establishes a “*general right of access to information… limited only be exceptions and exemptions necessary for the protection of essential public interests…*;” and “*making available to the public information about the operation of agencies and, in particular, ensuring that rules and practices affecting member of the public in their dealings with agencies are readily available…*” (s 3, *Freedom of Information Act 1982*, Government of Victoria).

When developing or applying a public transparency policy, councils must have regard for the other principles contained within the Act. For example, a community engagement should be used int the development of a council’s public transparency policy; strategic planning should be undertaken with regard to public transparency.

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