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Responsible Officer(s):	CEO
Council File Reference:	Council Policies (P)
Applicable Legislation:	Local Government Act 1999 (Sec. 61); Local Government (Procedure at Meetings) Regulations 2013; Criminal Law Consolidation Act 1935; Freedom of Information Act 1991
Relevant Policies:	Statutory Code of Conduct Elected and Committee Members Policy
Related Procedures:	Dealing with Council Member Requests for Access to Information <i>This Policy is not subject to Public Consultation</i>
Delegations:	As detailed in the BBC Delegations Register

1. Introduction

Council members require access to certain information in order to perform their functions and duties, in particular to assist them in making informed decisions. The Local Government Act 1999 (the LG Act) provides the legislative basis for this access.

This policy seeks to facilitate appropriate access by Council members to relevant documents and other information held by Council.

2. Policy Objectives

The objectives of this policy are:

- to promote the accessibility of information to Council members
- to balance the important considerations of access to information by Council members, and the need to carefully manage sensitive, personal, private and confidential information, the public availability of which may cause detriment to the Council, the community or another party; and
- to facilitate informed decision making in an environment of mutual trust and respect for the respective functions, roles and responsibilities of Council members and staff.

3. Legislation

The primary legislative provisions regarding Council members' access to information is Section 61 of the LG Act and entitles a member of Council "*in connection with the performance or discharge of the functions or duties of the member (whether under this or another Act), without charge, to have access to any relevant council document, including (but not limited to) –*

- (a) *a copy of a written contract entered into by the council, or a copy of a document relating to a contract that is proposed to be entered into by the council;*
- (b) *accounting records kept by the council;*
- (c) *financial statements and other documents prepared by the council under Chapter 8 (Administrative and financial accountability)*

Section 59 of the LG Act sets out the role of a Council member. Section 62(3) of the LG Act covers improper use of information. Section 251(1) of the Criminal Law Consolidation Act 1935 addresses the issue of abuse of public office.

4. Policy

In general, a Council member will be provided access to all documents held by Council unless they are irrelevant to the member's function or duties. Council members will not be granted access to documents regarding the personal affairs of Council staff, except for the Register of Interests that is required to be maintained under Section 116 of the LG Act and be made available for Council members' inspection upon request (LG Act, Section 118).

5. Procedures

A request for access to a Council document under Section 61 of the LG Act may be directed in the first instance to the Chief Executive. The request may be made in person, by phone or in writing, e.g. by email. The request should identify the document/s being sought with enough detail for the document/s to be identified and retrieved, and state the reason(s) for the request.

5.1 Consideration of Request

Unless there is a clear reason to the contrary, a Council member will be provided access to the document/s if they are held by Council. Where access to a document is not provided, the reason is to be provided to the Council member in writing.

5.2 Provision of Access to Documents

The form of access to the document/s will be negotiated with the Council member to accommodate the particular needs of the member and administrative efficiency.

Where the document is publicly available, eg posted on Council's website, the member may be provided with a hard copy or sent a link to the relevant page on the website.

Where access is granted to a document that is not publicly available and there is no sensitivity to the document, a copy of the document will be provided to the member in an agreed form.

Where there is a degree of sensitivity or there are other reasons to restrict distribution of the document/s (e.g. if the documents contain legal advice, confidential information or internal corporate information) access may be limited to 'view only' access at a mutually convenient time at the principal office of the Berri Barmera Council.

Email advice confirming the 'view only' access arrangements will be sent to the member. A Council member may seek to have the decision to only grant 'view only' access reviewed by the Chief Executive Officer and Mayor. Where the document may be of a wide interest, a copy of the email advice will be sent to all Council members.

6. Meeting Procedure Regulation 18

Meeting Procedure Regulation 18 has the effect of requiring the 'tabling' of a document before a vote of the Council or Committee on a matter related to that document. The determination of the application of Meeting Procedure Regulation 18 is the responsibility of the Presiding Member at the meeting, if necessary advised by the Chief Executive. Where the Presiding Member refuses to require a document to be 'tabled', the refusal and the reasons for the refusal are to be recorded in the minutes of the meeting. The determination of the Presiding Member in relation to Meeting Procedure Regulation 18 may be changed by resolution of the relevant meeting. The Chief Executive Officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under Section 90 or Section 91 of the Act. The minutes of the meeting must record any request for documents tabled as well as any documents tabled. If the member who has required documents to be tabled, a formal motion should be moved by a member who has not spoken, to adjourn the item to a specific time or date.

7. Requests for other information

Where the information being sought is not in the form of existing Council document/s, and the request requires more than a simple response, it will be treated as a request for a report to Council. The timeframe for reporting will be driven, to an extent, by the time required to research the information and prepare the report in a way that responds effectively to the issues raised and the urgency of the matter.

8. Other issues

This policy does not limit the rights of a Council member to use the Questions on Notice (Reg. 9) or the Notice of Motion (Reg. 12) provisions of the Local Government (Procedures at Meetings) Regulations 2013 to seek answers to questions or to request that a report be prepared on certain issues.

Nor does this policy restrict a Council member from exercising their rights as a citizen to use the provisions of the Freedom of Information Act 1991 to seek access to certain documents held by Council.

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