

**ACCESS TO INFORMATION
POLICY**

June, 2011

Authority and Other Information	
Date of approval	July, 2011
Source of approval	Council Resolution 18.053
Date of commencement	13 July, 2011
Source of authority	<i>Right to Information Act 2009</i>
Legislative Reference	Section 23 of the <i>Right to Information Act 2009</i>
Delegations	N/A
Strategic Plan Reference	5.1
Date of review	At least once every 5 years but not later than July, 2016 or as required as a result of any legislative change to the <i>Right to Information Act 2009</i>
Previous policies withdrawn or amended	<i>Access to Information Policy 2008</i> adopted by resolution No. 15.008/08 dated 11 June, 2008
Department responsible for implementation	Planning and Legal Services
Department responsible for policy	Planning and Legal Services
Publication of policy	A copy of the Huon Valley Council <i>Access to Information Policy, June, 2011</i> be placed on Council's website and copies be made available for inspection at and free of charge from Customer Service Centre.

1. PURPOSE AND POLICY BACKGROUND:

1.1 Information Custodian

The Huon Valley Council (HVC) is a public authority as defined under the *Right to Information Act 2009* (the Act).

HVC holds information, for and on behalf of the Huon Valley residents, in order to perform its functions and those of its Councillors.

The definition of information in the possession of HVC under the Act clarifies that it only covers information which relates to the official business of HVC and excludes information which is in the possession of HVC for the sole purpose of collation or forwarding to a body other than another public authority.

1.2 Policy Purpose and Background

Section 23 of the Act requires the General Manager as principal officer to prepare and promulgate policies and procedures for the release of information under the Act.

This Policy is adopted by Council to further the Act and explains the disclosure policy in HVC for the four types of information disclosure specified in section 12 (2) of the Act being:

- Required Disclosure,
- Routine Disclosure,
- Active Disclosure and
- Assessed Disclosure.

1.3 Right to Information - Legislative Context

Section 7 of the Act gives a person a legally enforceable right to be provided with official information in the possession of HVC, unless the information is exempt information.

Section 9 provides that a person is not entitled to certain information that is otherwise available including:

- Information that may be inspected by the public in accordance with another Act or
- Information that may be purchased at a reasonable cost in accordance with arrangements made by a public authority.

Under section 205(1)(d) of the *Local Government Act 1993* Council may impose fees and charges in respect of providing information or materials, or providing copies of, or extracts from, records of Council.

2. POLICY STATEMENT:

2.1 Policy Statement

The following Policy will guide HVC officers in making decisions about what information is released and the method of making that information available:

- HVC will make official information in its possession, publicly available when it is relevant, appropriate and in the public interest to do so and not subject to an exemption set out in the Act.
- Some of the information that HVC holds is not able to be released because it is Excluded Information.
- Applications for personal information by an individual to whom the personal information relates should be dealt with under the *Personal Information Protection Act 2004*.
- Information that is not otherwise Excluded Information or otherwise made available under the Act may be purchased and fees may apply for processing requests for information in accordance with a fee and charge schedule determined by Council. Where fees and charges are determined by Council for the purchase of information, the Purchase fee is reduced by 50% if the request relates to information relating to the Applicant's Property, personal affairs or business dealing with Council.
- Information will be considered for release in accordance with the Disclosure Principles in this Policy.
- HVC officers who are involved in the release of information to the public will make decisions which are consistent with the objects and provisions of the Act.

2.2 Disclosure Principles

2.2.1 Required Disclosure

Examples of Required Disclosure includes publication of information such as Strategic Plans, Annual Plans, Annual Reports and other reports which HVC must make available under law.

Information released under Required Disclosure will be made available at Council's website and for inspection at Council Offices.

2.2.2 Routine Disclosure

2.2.2.1 Classes of Information for Publication:

The classes of information that will be published on Council's website as routine disclosure are as follows:

- About us – who we are and what we do
- Our services – services we offer or deliver
- Our priorities – what our priorities are and how we are doing
- Our finances – what we spend and how we spend it
- Our decisions – how we make decisions
- Our policies – our policies and procedures
- Our Strategies – our strategies and plans
- Our lists – lists and registers

- Our Decision Making – Council agendas, reports, minutes and attachments (excepting planning authority attachments)

Information within each class will be made up of different types of information and will progressively be published in accordance with this Policy.

The information will be updated and added to from time to time, with each new item reflecting current information.

2.2.2.2 Routine Disclosure Considerations

In approving types of information under each class as suitable to be routinely disclosed the following matters must be considered:

- What information may be material to the community – i.e. what is significant, relevant and meaningful?
- What information key stakeholders and the community might reasonably expect to be able to access?
- The extent of public or other demand for the information.
- How useful the information would be to the public in dealing with HVC
- Whether publication would improve the public's ability to contribute to the work of HVC or to decision-making by HVC.
- Whether publication would provide increased transparency about the operations of HVC such as information about HVC's expenditure.
- Whether publication would promote greater accountability by HVC, for example by showing the basis of its decisions.
- Whether the information promotes community wellbeing.

Other questions relevant to a decision to routinely disclose are:

- Does HVC possess the information?
- Does the information relate to the official business of HVC?
- Has the information been archived or is it out of date or otherwise inaccessible?
- Is it impracticable or resource intensive to prepare the material for routine release?
- Is the information significant – is it about important aspects of HVC such as major projects, key initiatives or policy documents?
- Is the information preliminary or deliberative or does it represent the final and approved position/decision?
- Does the information tell the public what we do, how we do it or how we spend public money?
- Is the release of the information lawful - having regard to the Act, other legislation and any other legal obligation such as an agreement or copyright?
- Is the release appropriate - having regard to issues such as privacy principles, defamation, third party and security issues?

- Is the information accurate? All efforts should be made to ensure that information is up to date and accurate.
- What is the cost and time involved in producing the information? The release of information should be at the lowest reasonable cost.
- Is the information otherwise exempt - having regard to Part 3 of the Act?
- Is it in the public interest to release – having regard to Schedules 2 and 3 of the Act?

2.2.3 Active Disclosure

For all requests for information that are not otherwise available under Required Disclosure or Routine Disclosure Officers will:

- Direct the person to the information if it is already publicly available (including directing the person to a commercially available source if the information is required in hard copy and is available for sale by HVC, e.g. information that is available for purchase (not including Excluded Information) in accordance with any fees and charges for purchase of Information as determined by Council or information available from the State such as property information on the LIST website.
- Consider asking for a request in writing to provide greater clarity around the information being sought, and to whom the information is to be provided
- Decide whether the information can be released to the person in full or in part, taking into consideration factors such as:
 - third parties – who may have provided commercial in confidence information or information provided strictly in confidence by third parties
 - personal privacy – decisions must be consistent with Council's Personal Information Privacy Protection Policy adopted under the *Personal Information Protection Act 2004*
 - confidentiality – information provided in confidence (commercial or otherwise)
 - copyright or ownership of the material - In these circumstances, provided no relevant exemption may apply, an application may be made to inspect or view the information however copies will not be provided. Copies of these documents will only be available for purchase to owners of the relevant documents and properties or with permission of the person who owns the intellectual property in the information. An interested third party will only be able to inspect them
 - the exemptions outlined in the Act
 - contractual obligations that may relate to the information
 - whether the information contains material of a defamatory nature
 - if the information is part of an ongoing investigation or legal action
- Release any of the requested information that can be disclosed and where applicable inform the person of any relevant information that cannot be disclosed in this way and provide the person with advice on their rights to apply for an assessed disclosure to obtain access to any information which cannot be actively disclosed

2.2.4 Assessed Disclosure

Assessed disclosure is the method of disclosure of last resort. In other words, where possible, Council will make information voluntarily available, whether free of charge or by purchase and so reducing the need for assessed disclosure.

3. APPLICATION:

Information management is the responsibility of all Council officers and it is also critical to enable disclosure of information under the Act.

This Policy been developed to:

- a) be used within HVC by Council Officers; and
- b) enable relevant details of the Act to be published and made available to the public.

All Officers are responsible and accountable for:

- keeping records of all official information produced, received or acquired;
- making records to support what they do; and
- registering documents in HVC's records management system.

Council when adopting, endorsing or approving of a document will determine:

- Whether or not a document will be available to the public.
- The manner in which it will be made available.
- Any cost for purchase of the information if not to be in accordance with the schedule of fees and charges.

4. DEFINITIONS:

“Active disclosure” means a disclosure of information by HVC in response to an application in accordance with section 13 of the Act.

“Assessed disclosure” means a disclosure of information by HVC in response to a request from a person made under Division 2 of Part 2 of the Act.

“Exempt information” As defined in Part 3 of the Act.

“Excluded information” includes information that is:

1. by its nature that is exempt from release, including, but not limited to, information (reports, agendas and documents) associated with a Closed Session of Council pursuant to regulation 15 of the *Local Government (Meeting Procedures) Regulations 2005*;
2. *prima facie* exempt but subject to the public interest test and may not in the public interest to release; or
3. prevented by other law or agreements to be released.
4. owned by a third party and subject to intellectual property rights such as under the *Copyright Act 1936 (Cth)*.

“Information” means:

- a) anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording and photograph; and
- b) anything in which information is embodied so as to be capable of being reproduced.

“HVC” means the Huon Valley Council.

“Officer” within the meaning of the Act, means an HVC employee and, where applicable an HVC contractor or a consultant.

“Required disclosure” means a disclosure of information by HVC where the information is required to be published by the Act or any other Act, or where disclosure is otherwise required by law or enforceable under an agreement.

“Routine disclosure” means a disclosure of information by HVC which the public authority decides may be of interest to the public, but which is not a required disclosure, an assessed disclosure or an active disclosure.

“The Act” means the *Right to Information Act 2009*

5. PROCEDURES:

The General Manager will determine procedures as necessary for implementation of this Policy in accordance with the requirements of section 23(1)(a) of the Act and will appoint and delegate General Manager functions to Officers to assist in undertaking General Manager functions under the Act.