

# Public Transparency Policy

Strategic Alignment - Enabling Priorities

Public

Tuesday, 21 November 2023  
City Finance and Governance  
Committee

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## EXECUTIVE SUMMARY

The purpose of the Public Transparency Policy is to align the City of Adelaide (CoA) with the objects of the *Local Government Act (SA) 1999* (the Act) to encourage the participation of the local community in the affairs of local government and ensure CoA's accountability to the community.

A Public Transparency Policy provides a clear public statement about the CoA's commitment to openness and its approach to using the confidentiality provisions in the Act. The policy sets out a clear direction for updating guidelines, procedures and practice.

The policy was developed as a result of an independent review of CoA's policies and procedures related to the use of Confidentiality Orders.

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## RECOMMENDATION

The following recommendation will be presented to Council on 28 November 2023 for consideration

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Adopts the Public Transparency Policy as contained in Attachment A to Item 7.4 on the Agenda for the meeting of City Finance and Governance Committee held on 21 November 2023.
  2. Authorises the Chief Executive Officer to make any minor editorial and formatting changes as required to finalise the Public Transparency Policy.
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## IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	This Policy is a new policy which has been created as a result of an independent review commissioned by the Administration
Consultation	An independent review was conducted by BRM Advisory and as part of this process, key CoA staff were consulted.
Resource	Not as result of this Policy
Risk / Legal / Legislative	This policy will align CoA with the objectives of the <i>Local Government Act (SA) 1999</i>
Opportunities	The Policy is presented in a format that is accessible to Council Members as well as members of the public
23/24 Budget Allocation	Not as result of this Policy
Proposed 24/25 Budget Allocation	Not as result of this Policy
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as result of this Policy
23/24 Budget Reconsideration (if applicable)	Not as result of this Policy
Ongoing Costs (eg maintenance cost)	Not as result of this Policy
Other Funding Sources	Not as result of this Policy

# DISCUSSION

1. The CoA engaged BRM Advisory to undertake an independent review of its policies and practices related to the use of Confidentiality Orders.
2. The review was completed in August 2023 and the findings presented to the Strategic Risk & Internal Audit (SRIA) Group in October 2023 and the Audit & Risk Committee meeting on 10 November 2023.
3. A recommendation resulting from the independent review was for CoA to adopt a Public Transparency Policy to guide decision making and practice.
4. A Public Transparency Policy will provide a clear public statement about CoA's commitment to openness and approach to using the confidentiality provisions in the Act. The Policy will set a clear direction for updating guidelines, procedures, and practice.
5. A draft Public Transparency Policy, tailored for the CoA, has been prepared and is provided as an attachment to this report. This Policy is not required under the Act in South Australia, but key elements have been drawn from Victoria where councils are required to adopt such a Policy (draft policy).
6. The draft Policy recognises that the responsible use of confidentiality is an important part of good governance and does not seek to unreasonably limit or fetter the appropriate application of the Act. The intent is to provide clear guidance on how CoA will balance the objectives of openness and transparency and restricting public access where necessary and appropriate.
7. In preparing the draft Policy, BRM Advisory had regard to the SA Ombudsman's 2012 'In the Public Eye' report ([Link 1](#)), guidance material provided to SA councils by the Local Government Association of South Australia and best practice in the sector. These documents still stand as the most current guidance.
8. Key elements of the draft policy are:

## **8.1. Public Interest Test**

- 8.1.1. The draft Policy sets out an overriding presumption towards openness, in accordance with the intent of the Act and the CoA direction to adopt a pro-disclose approach. In practice this means that matters where the public interest test is finely balanced, decisions should lean towards disclosure. It also means that the reasons for applying confidentiality should clearly establish that the harm or detriment expected to flow from disclosure would be real and significant, rather than a future theoretical harm or detriment.

## **8.2. Third Party Information**

- 8.2.1. The draft Policy recognises that confidential information provided by or relating to Third Parties can reasonably be expected to be kept in confidence when grounds under the Act can be established. It is important though, that the relevant tests under the Act are applied and that third parties understand CoA's obligations to release decisions and information in circumstances where the grounds for confidentiality under the Act cannot be established. The draft Policy establishes an expectation that CoA will take reasonable steps prior to entering into an agreement or contract to inform a third party of the type of information that will be released and when and how it will be released. Adopting this approach may require consequential amendments to CoA's policies and practices in areas such as procurement and leasing.

## **8.3. Accountability and Reporting**

- 8.3.1. The draft Policy recognises that CoA has obligations to report on the use of confidentiality provisions in its Annual Report. Guidance is provided on the performance metrics that should be adopted, such as reporting on the number of confidential decisions made as a percentage of total decisions. The SA Ombudsman has previously indicated that an appropriate benchmark for use of confidentiality is not more than 3-5% of total items of business.

## **8.4. Proactive Disclosure**

- 8.4.1. The draft Policy provides that CoA may routinely publish information on its website to proactively disclose information that could be or has been subject of a Freedom of Information Request.

# DATA AND SUPPORTING INFORMATION

[Link 1 – SA Ombudsman Report, “In the Public Eye” 2012](#)

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## ATTACHMENTS

**Attachment A** – DRAFT Public Transparency Policy

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