



2024

# Council records

## A guideline for mayors, councillors, CEOs and council employees

In this advisory, the Crime and Corruption Commission (CCC) and Queensland State Archives (QSA) set out the requirements for the management of council records. It addresses the following questions:



- Why is good recordkeeping important?
- What is a public record?
- What are the requirements for managing records?



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# Why is good recordkeeping important?

Public records are the cornerstone of an accountable and democratic society. They allow scrutiny by the public of the decisions made by those who are elected or employed to act on their behalf.

## Effective recordkeeping strengthens transparency and good governance

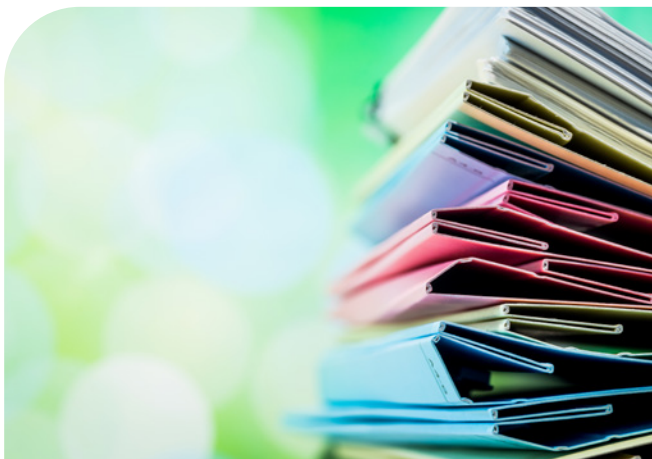
It also supports the five Local Government principles from the [Local Government Act 2009](#) (LG Act) that mayors and councillors, CEOs and council employees must comply with while performing their roles. These principles are:

- Transparent and effective processes, and decision-making in the public interest
- Sustainable development and management of assets and infrastructure, and delivery of effective services
- Democratic representation, social inclusion and meaningful community engagement
- Good governance of, and by, local government
- Ethical and legal behaviour of councillors and local government employees.

Inadequate recordkeeping increases the risk of councils being unable to provide reasons for, or evidence of, their decisions or actions, potentially undermining public confidence in the Council, CEO, and its employees.

Effective recordkeeping allows councils, including mayors and councillors, to:

- meet their legislative requirements and responsibilities
- make robust and consistent decisions
- provide evidence of decisions and actions
- protect the rights and entitlements of ratepayers
- promote confidence in the authenticity and integrity of information
- support efficient and transparent business practices
- provide accurate information in response to any complaints or accusations of wrongdoing.



*Inadequate recordkeeping increases the risk of councils being unable to provide evidence of their decisions or actions.*

<sup>1</sup> [Local Government Act 2009](#), s.4 (2)

# What is a public record?

The *Public Records Act 2002* (PR Act) defines a public record as “any form of recorded information, created or received by a public authority, in the exercise of its statutory, administrative or other public responsibilities or for a related purpose”.<sup>2</sup> Councils are public authorities and therefore required to create and manage public records.

A public record is **any form of recorded information** that:

- is evidence of an official business activity
- is evidence of a decision
- is evidence of a transaction or action taken
- is created or received to meet legal requirements, community expectations or business needs.

The content of the record determines whether it is a public record – regardless of the format of the record or where the record is created, received or stored.

**Public records can be created in digital or paper formats and include:**



- videos
- images
- text messages
- emails
- social media interactions
- data held in business systems
- conversations in messaging applications.

## How does this apply to council records?

Council records are public records where the content of the record relates to the administration of council business or the record is for the council’s use or are made for a purpose of the council. This can include records about decisions or actions made by council employees, the mayor and councillors under the [Local Government Act 2009](#) (LG Act) or the [City of Brisbane Act 2010](#) (COBA).<sup>3</sup>

### Examples of public records

- |   |   |
|---|---|
| ✓ minutes of council meetings and the notes used to make those minutes  | ✓ a text with a decision to approve funding for a project                     |
| ✓ decisions resulting from discussions between councillors about the administration or management of the local government | ✓ a post-it note with instructions to act on a report                         |
| ✓ rate notices  | ✓ a complaint from a ratepayer made to a council’s social media account       |
| ✓ dog registrations and renewals  | ✓ a video or audio recording of a meeting about progress on a council project |
| ✓ an email telling staff about a WHS meeting  | ✓ a council social media post talking about an upcoming council event.        |
| ✓ diaries of mayors and councillors   |   |

### Records relating to the following activities are not public records

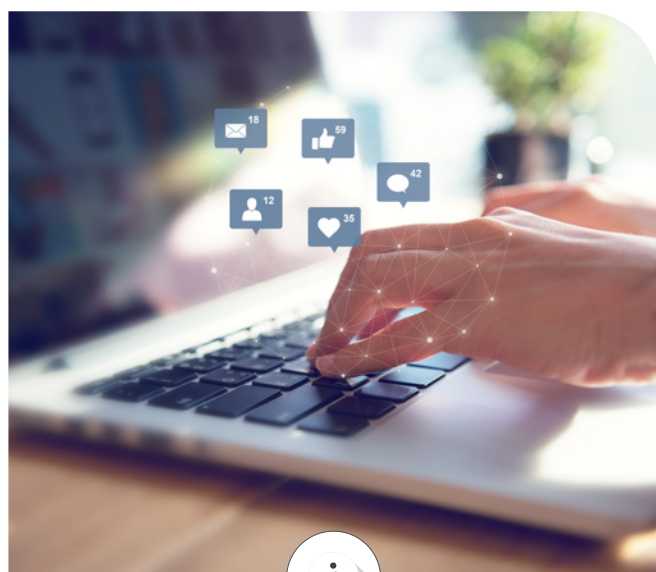
- |  |  |
|--|--|
| ✗ personal activities and interactions with family and friends | ✗ divisional activities or election campaigning. |
| ✗ political membership or activities                           |  |

<sup>2</sup> [Public Records Act 2002](#), s.6

<sup>3</sup> [Local Government Act 2009](#), s.12, s.13; [City of Brisbane Act 2010](#), s.14, s.15

# What are the requirements for managing public records?

All public records are subject to legislation and legal processes such as discovery and subpoena.



*All public records, including digital records such as social media interactions, conversations within messaging applications and text messages, are subject to legislation and legal processes such as discovery and subpoena.*

A range of legislation exists which specifies requirements for the creation and management of public records, including:

- [Local Government Act 2009](#)
- [Public Records Act 2002](#)
- [Right to Information Act 2009](#)
- [Information Privacy Act 2009](#)
- [Evidence Act 1977](#)
- [Electronic Transactions Act 2001](#)
- [Crime and Corruption Act 2001](#).

Councils are also required to abide by the recordkeeping policies and guidelines issued by the State Archivist including:

- [Records governance policy](#)
- [Local government sector retention and disposal schedule](#)
- [General retention and disposal schedule](#).

The following pages outline the three requirements essential to good recordkeeping:

1. The CEO and council employees are aware of and fulfil their recordkeeping obligations under the PR Act.
2. The CEO and council employees must make full and accurate public records
3. Public records must be retained for as long as they are lawfully required to be kept.





## REQUIREMENT 1

# The CEO and council employees are aware of and fulfil their recordkeeping obligations under the *Public Records Act 2002*

### *Policies and procedures for the management of public records*

**Councils have a responsibility for the efficient management of public records. CEOs and council employees (including contractors and volunteers) must fulfil their recordkeeping obligations under the PR Act and any other relevant legislation such as the LG Act or the COBA.**

To assist council CEOs and employees in meeting their statutory recordkeeping obligations, council recordkeeping policies and procedures should outline expectations for the capture and management of public records. Recordkeeping policies and procedures should:

- outline the recordkeeping roles and responsibilities of the CEO, council employees, contractors, mayors and councillors
- define council-specific recordkeeping requirements
- specify the use of council-approved technologies and applications that meet security and recordkeeping requirements
- define public records and provide advice on how to identify them
- identify how public records will be captured and managed appropriately, including:
  - » responsibility for the capture of emails
  - » management of public records in social media or messaging applications
  - » use of private accounts and how and when public records are captured
  - » protocols for records contained on council-issued mobile devices (e.g. through device management software or routine physical download from devices)
- outline when public records can be disposed of and under what circumstances, including authorisation, disposal methods and documentation.

Mayors and councillors should consult with the CEO (or authorised delegate) of their Council to determine how public records in their possession or control will be managed.

The deliberate use of unapproved technology and platforms would be a breach of council policies.

- For mayors and councillors this may result in a complaint to the Office of the Independent Assessor (OIA) and would be a conduct breach within the meaning of the LG Act.
- More serious cases may also be misconduct within the meaning of the LG Act on the basis that it is a breach of the trust placed in a councillor, and disciplinary action may be commenced in the Councillor Conduct Tribunal.

### REMEMBER

**Recordkeeping policies and procedures should:**

- outline roles and responsibilities
- define requirements
- specify use of approved technologies
- define a public record
- identify how records will be captured and managed
- outline disposal timeframe.





## REQUIREMENT 2

# The CEO and council employees must make full and accurate public records

### *Recordkeeping responsibilities for council employees*

**Under the PR Act, overall responsibility for recordkeeping in a local government rests with the Council's CEO. However, the recordkeeping responsibilities outlined in the PR Act extend to anyone who creates or receives public records, including council employees.**

Specific recordkeeping responsibilities of the CEO include:

- ensuring the safe custody of all council records (not just public records)<sup>4</sup>
- ensuring the Council makes and keeps full and accurate records of activities and has regard to any relevant policy, standards and guidelines made by the State Archivist.<sup>5</sup>

### *Recordkeeping responsibilities for mayors and councillors*

**Any record created or received by a mayor or councillor that relates to the administration of council business is a public record.<sup>6</sup>**

Some examples of such records are:

- documents created as part of the administration of the local government
- communications about the adoption and implementation of policy and local laws
- a letter addressed to a mayor or councillor from a constituent relating to council business
- an internal memo written by a mayor or councillor to their CEO
- posts on social media or any other application about council-related matters that relate to responsibilities under the LG Act or the COBA<sup>7</sup>
- a mayor or councillor's diary of council-related appointments and meetings.

Records relating to personal activities, political memberships or activities, divisional activities, or election campaigning are not public records and do not need to be managed as public records.



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### Recordkeeping for mayors and councillors

For more examples of public records for mayors and councillors, along with answers to common recordkeeping questions, please refer to [Recordkeeping examples for mayors and councillors](#).

<sup>4</sup> [Local Government Act 2009](#), s.13(3)(e); [City of Brisbane Act 2010](#), s.15(2)(e)

<sup>5</sup> [Public Records Act 2002](#), s.7

<sup>6</sup> [Local Government Sector Retention and Disposal Schedule](#), 13.5.1

<sup>7</sup> [Local Government Act 2009](#), s.12; [City of Brisbane Act 2010](#), s.14



## REQUIREMENT 2 continued

### *Management of records in email, text or app-based communications*

**Regardless of the format used, any communications about the administration of council business are public records that must be documented and captured. This includes messages sent and received via email, text messages, social media and messaging apps. It also includes private email, messaging or social media accounts used to conduct council business.**

Failure to capture communications about council business (or similarly, deliberately avoiding the use of approved channels in order to have “off-line” communications), is a breach of an individual’s recordkeeping responsibilities.

There are a number of tools that can assist in automating the capture of email, text or app-based communications so that they can be saved as public records.<sup>10</sup> However caution should be exercised when using instant messaging apps in particular as their extraction and identification as public records can be more difficult.

Private email and social media accounts should not be used to conduct council business (e.g. policy development, decision making etc.) unless all such communications are captured in the council’s recordkeeping system.

Use of private accounts may be perceived as a way to avoid public scrutiny of council decisions or actions and create the perception of corrupt conduct (even if this is not the case).

Best practice for managing records in private accounts or on personal devices includes:

- forwarding any public records received to an official council email account within 20 calendar days of receipt or creation
- using a council account to respond to any communications
- activating automatic replies that direct people to send correspondence related to their local government responsibilities to official council accounts.<sup>11</sup>

**Note:** The Code of Conduct includes specific requirements regarding councillor use of email. Specifically, standard of behaviour 1.3 requires councillors to “Use only official council electronic communication accounts (e.g. email accounts) when conducting council business”.<sup>12</sup>

To assist in determining whether social media accounts are being used in an official capacity, the Office of the Information Commissioner has published specific advice with a range of factors for consideration.<sup>13</sup>

### REMEMBER



**Use of private email and social media accounts to conduct council business:**

- must be captured in the council’s record keeping system
- may be perceived as a way to avoid public scrutiny of decisions or actions, and create the perception of corrupt conduct.

<sup>10</sup> [Social media records](#)

<sup>11</sup> [Public records in private accounts](#)

<sup>12</sup> [Code of Conduct for Councillors in Queensland](#)

<sup>13</sup> [Online and on your phone: processing access applications for social media, webmail and text messages](#)



## REQUIREMENT 3

# Public records must be retained for as long as they are lawfully required to be kept

## Retention of public records

**The *Local Government Sector Retention and Disposal Schedule* (QDAN 480v4) and the *General Retention and Disposal Schedule* establish the retention requirements for public records and can be used to assist councils to manage their records and meet the requirements of the PR Act.**

Examples of council records that must be retained permanently include:

- a master set of council and committee meeting minutes and agendas<sup>14</sup>
- diaries of mayors<sup>15</sup>
- a speech made by a mayor or councillor on an occasion of historical significance.<sup>16</sup>

Examples of council records that are only required to be retained temporarily include:

- audio recordings of council meetings (once the minutes are confirmed)<sup>17</sup>
- mayor or councillor representation on external committees.<sup>18</sup>

The retention requirements of a record may be changed by activities such as legal action or a [Right to Information \(RTI\) application](#). See the [General Retention and Disposal Schedule](#) for the retention requirements for records relevant to legal action or RTI applications.<sup>19</sup>

Role type	Responsibilities
Mayors and councillors	<ul style="list-style-type: none"> <li>• Ensuring that full and accurate records of the business of the Council are being made and kept, including meeting minutes or instructions to the CEO.</li> <li>• Complying with Council records management policies and procedures.</li> <li>• Securing records from unauthorised access.</li> <li>• Ensuring there is no unauthorised disposal of public records.</li> </ul>
Chief Executive Officers (CEOs)	<ul style="list-style-type: none"> <li>• Ensuring that full and accurate records of the business of the Council are being made and kept.</li> <li>• Ensuring recordkeeping is regularly reported on by your executive team.</li> <li>• Providing appropriate resources to actively maintain your recordkeeping systems.</li> <li>• Promoting and supporting a positive recordkeeping culture.</li> <li>• Endorsing the disposal of public records.</li> <li>• Setting restricted access periods and approving access to restricted records for records held in the custody of Queensland State Archives.</li> </ul>
Senior Executives	<ul style="list-style-type: none"> <li>• Council wide and strategic responsibility for recordkeeping.</li> </ul>
Senior Officers	<ul style="list-style-type: none"> <li>• Ensuring all employees are aware of recordkeeping policies and procedures.</li> <li>• Assigning recordkeeping responsibilities to the right people.</li> <li>• Ensuring recordkeeping processes support business processes – this means making sure recordkeeping is built into processes.</li> <li>• Ensuring there is no unauthorised disposal of records.</li> </ul>
Records Management Specialists	<ul style="list-style-type: none"> <li>• Establishing and managing a recordkeeping system.</li> <li>• Identifying business recordkeeping requirements.</li> <li>• Integrating recordkeeping and business processes.</li> <li>• Ensuring recordkeeping training is provided to all employees.</li> <li>• Coordinating the disposal of public records in line with authorisation given by the State Archivist.</li> <li>• Ensuring appropriate access to public records.</li> </ul>
All staff members, including contractors and volunteers	<ul style="list-style-type: none"> <li>• Creating and capturing full and accurate records of Council business.</li> <li>• Complying with Council records management policies and procedures.</li> <li>• Securing records from unauthorised access.</li> <li>• Ensuring there is no unauthorised disposal of public records.</li> </ul>

<sup>14</sup> [Local Government Sector Retention and Disposal Schedule](#), 13.6.4

<sup>15</sup> [Local Government Sector Retention and Disposal Schedule](#), 13.4.8

<sup>16</sup> [Local Government Sector Retention and Disposal Schedule](#), 2.1.1

<sup>17</sup> [Local Government Sector Retention and Disposal Schedule](#), 13.6.6

<sup>18</sup> [Local Government Sector Retention and Disposal Schedule](#), 13.6.8

<sup>19</sup> [General Retention and Disposal Schedule](#)





## REQUIREMENT 3 continued

### *Disposal of public records*

**Public records can only be disposed of or destroyed with the authorisation of the State Archivist. Retention and disposal schedules are the most common way for the State Archivist to provide authorisation for disposal of public records. Not all public records can be disposed of – some must be retained permanently, and these may be transferred to Queensland State Archives.<sup>20</sup>**

Any disposal of public records must meet the requirements of the PR Act. Councils are required to develop and maintain a disposal plan which includes recording the details of when and how any disposal occurs. The Council's CEO or their authorised delegate must endorse any disposal before it occurs.<sup>21</sup>

Any disposal method used must be appropriate for the records in question. For example, records with confidential information will require a disposal

method that ensures confidentiality will not be breached. For paper records, this may involve two-axis shredding or burning. For electronic records, this may require digital sanitisation.

The unlawful disposal of public records is an offence under s.13 of the PR Act, punishable by a fine of up to 165 penalty units.<sup>22</sup> The fine may be up to five times that amount for a corporation. The CCC, as well as the State Archivist, has jurisdiction to investigate possible breaches of the PR Act.

**i** For more information on appropriate disposal methods, see QSA advice on how to destroy records.<sup>23</sup>

### *Disposal of public records by mayors and councillors*

Mayors and councillors are required to follow council recordkeeping processes and must not destroy public records unless authorised. For example, mayors and councillors must not:

- delete council-related emails from council or private email accounts unless those emails have been captured in the council's recordkeeping system where appropriate
- delete council-related emails or social media posts (including from private accounts) unless they have been captured in the council's recordkeeping system.

#### REMEMBER



- If a record does not directly relate to the administration of council business, it is not a public record.
- If a record only includes information about personal activities, political membership or activities, divisional activities or election campaigning, it is not a public record.
- A lot of records you deal with as a councillor will already be captured by your council such as council minutes and agendas and complaints, so you don't need to also keep these records.
- If a record contains information about both council business and non-council business, the whole record is a public record.

<sup>20</sup> [Transfer records](#)

<sup>21</sup> [Records Governance Policy](#), Policy Requirement 6

<sup>22</sup> The current value of a penalty unit can be [accessed here](#).

<sup>23</sup> [How to destroy records](#)

## Further information and resources

For further information, visit the following websites:

- [Queensland Ombudsman](#)
- [Office of the Information Commissioner Queensland](#)
- [Queensland Audit Office](#)
- [Queensland State Archives](#)
  - [Get started with records management](#)
  - [Resources and tools for records management](#)
  - [Local government records](#)
  - [Recordkeeping examples for mayors and councillors](#)



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### Queensland Government

#### Queensland State Archives

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