

| CP 4.12 Confidential Information Current Policy Statement | CP 4.12 Confidential Information Proposed | Section of Relevant Legislation | Change Notes | Councillor Comments |
|--|---|--|---|--|
| SUSTAINABILITY THEME Governance | SUSTAINABILITY THEME Governance | | | |
| OBJECTIVES The objective of this policy is to ensure no detriment is caused to the Council, staff, member of public or community by any person, employee, councillor or contractor by the release of personal or sensitive information | OBJECTIVES The objective of this policy is to ensure no detriment is caused to the Council, staff, member of public or community by any person through the release of personal, sensitive or confidential information, including information disclosed in a meeting which is closed to the public. | | Upgraded wording | |
| POLICY STATEMENT This policy applies to all Councillors, City employees and contractors. | This policy applies to all Councillors, City employees, contractors and volunteers. | | Minor change | |
| POLICY DETAILS 1. Information withheld by the CEO from members of the public under Administration Regulation 14 (2) is to be marked "Confidential Information" in the agenda. | 1. Legislation and Policy Confidential, sensitive, and personal information, whether written, electronic, recorded, video footage or verbal is protected from unauthorised access and use under the following provisions: <ul style="list-style-type: none"> The Local Government Act 1995, Part 5 Division 7; Local Government (Administration) Regulations 1996, Part 7; The Local Government (Rules of Conduct) Regulations 2007, regulation 6 and 7; City of Greater Geraldton Meeting Procedures Local Law 2011, Part 5 – Paragraph 5.15; Council Policy CP 4.2 Code of Conduct for Council Members and Committee Members, section 3.1; and Operational Policy OP054 Employee Code of Conduct, section 4. | City of Greater Geraldton Local Law 2011 5.15 Confidentiality of information withheld (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be— (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; (b) marked "Confidential" in the agenda; and (c) kept confidential by officers and members until the Council resolves otherwise. | Delete as contained within the Local Law or alternative wording to clarify Legislative and policy provisions. | |
| 2. Confidential Information within an agenda is not to be disclosed to any person other than a member of the Council or the committee or an employee of the City to the extent necessary for the purpose of carrying out his\her duties. | 2. Obligations Council Members, Committee Members and employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm, detriment or impairment to any person, body, or the Council. Due discretion shall be exercised by all those who have access to confidential or sensitive information. This applies not only to the proper disclosure of that information, but also to the appropriate measures to be taken to ensure that the security of the information is not compromised. Every matter dealt with by, or brought before, a meeting which is closed to the public, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Council members and/or employees of the City (and in the case of employees only so far as may be necessary for the | City of Greater Geraldton Local Law 2011 (1) A member or an officer who has— (a) confidential information under subclause (1); or (b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public, must not disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties. | Delete as contained within the Local Law Or upgraded wording taken from WALGA model code of conduct | <u>Cr McIlwaine</u> The Briefing Note lists legislation and policies that cover issues re confidential information. is there anything in our existing / proposed policy that is not clearly covered? Am I correct in reading the proposed 4.2 Policy, section 3.2 covers |

| | | | | |
|--|--|--|--|---|
| | <p>performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors. Nothing in this section prevents a Council member or officer from disclosing confidential information:</p> <ul style="list-style-type: none"> • to a legal practitioner for the purpose of obtaining legal advice; or • if the disclosure is permitted by law. <p>Nothing in the Local Government Act 1995 Division 7 or in this policy affects the operation of the <i>Freedom of Information Act 1992</i>.</p> | | | <p><i>what is required re this issue?</i></p> |
| <p>3. A person who is an Council member, a committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed during a meeting closed in accordance with Section 5.23 of the Local Government Act, however this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes made available to the public.</p> | | <p><i>Council Policy CP 4.2 Code of Conduct for Elected Members</i></p> <p>3. PERSONAL BENEFIT</p> <p>3.1 Use of Confidential Information <i>Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Council members and/or employees of the City (and in the case of employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.</i></p> <p><i>OP043 Operational Policy Employee Code of Conduct</i></p> <p>4. PERSONAL BENEFIT</p> <p>4.1 Disclosure of confidential information</p> <p>4.1.1 <i>Employees must not disclose to another person, unless it is required for the performance of their duties at the City, written or oral information that is provided to them, or obtained by them, in confidence or, in the case of a document, marked confidential.</i></p> | <p>Delete - This is a provision of the Local Law (see above) and CP 4.2 Code of Conduct for Council Members, and OP054 Employee Code of Conduct.</p> | |
| <p>a. Administration Regulation 14 (2) provides that if the CEO considers information including documents within notice papers or agenda is likely to be discussed behind closed doors at a meeting, the CEO may withhold that information from members of the public.</p> | | <p><i>Local Government (Administration)Regulations 1995</i></p> <p>14. Notice papers, agenda etc., public inspection of (Act s. 5.25(1)(j))</p> <p>(2) <i>Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion,</i></p> | <p>Delete as these are provided for in the Act and Regulations</p> | |

| | | | | |
|--|--|--|--|--|
| <p><i>Local Government Act 1995 Section 5.23 (2) (Extract from Practice Notes):</i></p> <p><i>“The council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:</i></p> <p>4.1. A matter affecting an employee or employees;</p> <p>4.2. The personal affairs of any person;</p> <p>4.3. A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;</p> <p>4.4. Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;</p> <p>4.5. A matter that if disclosed, would reveal:</p> <ul style="list-style-type: none"> • A trade secret; • Information that has a commercial value to a person; or • Information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; <p>4.6. A matter that if disclosed, could be reasonably expected to:</p> | | <p><i>the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).</i></p> <p><i>Local Government Act 1995</i></p> <p>5.23. Meetings generally open to public</p> <p><i>(1) Subject to subsection (2), the following are to be open to members of the public —</i></p> <p><i>(a) all council meetings; and</i></p> <p><i>(b) all meetings of any committee to which a local government power or duty has been delegated.</i></p> <p><i>(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —</i></p> <p><i>(a) a matter affecting an employee or employees; and</i></p> <p><i>(b) the personal affairs of any person; and</i></p> <p><i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and</i></p> <p><i>(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and</i></p> <p><i>(e) a matter that if disclosed, would reveal —</i></p> <p><i>(i) a trade secret; or</i></p> <p><i>(ii) information that has a commercial value to a person; or</i></p> <p><i>(iii) information about the business, professional, commercial or financial affairs of a person,</i></p> <p><i>where the trade secret or information is held by, or is about, a person other than the local government; and</i></p> | | |
|--|--|--|--|--|

| | | | | |
|---|---|--|-----------------|--|
| <ul style="list-style-type: none"> • Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; • Endanger the security of the local government's property; or • Prejudice the maintenance or enforcement of a lawful measure for protecting public safety; Information, which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971 and such other matters as may be prescribed." | | <p>(f) a matter that if disclosed, could be reasonably expected to —</p> <p>(i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or</p> <p>(ii) endanger the security of the local government's property; or</p> <p>(iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;</p> <p>and</p> <p>(g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and</p> <p>(h) such other matters as may be prescribed.</p> <p>(3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.</p> | | |
| <p>WORKPLACE INFORMATION</p> <p>Local Government Act 1995</p> <p>Freedom of Information Act 1992, including associated regulations.</p> <p>City of Greater Geraldton's Code of Conduct</p> | <p>WORKPLACE INFORMATION</p> <p>Local Government Act 1995</p> <p>The Local Government (Administration) Regulations 1996.</p> <p>The Local Government (Rules of Conduct) Regulations 2007.</p> <p>The City of Greater Geraldton Meeting Procedures Local Law 2011</p> <p>Freedom of Information Act 1992, including associated regulations.</p> <p>Council Policy CP 4.2 Code of Conduct for Council Members and Committee Members Operational Policy OP054 Employee Code of Conduct.</p> | | amended | |
| <p>ROLES AND RESPONSIBILITIES</p> <p>Director Organisational Performance is responsible for implementing this policy.</p> | <p>ROLES AND RESPONSIBILITIES</p> <p>Director Corporate and Commercial Services is responsible for implementing this policy.</p> | | Change of title | |