

**Executive Summary****12.9 Freedom of Information Annual Summary 2019/20**

*Enquiries: (Brianna Alcock: Chief Financial Office)*

**Council Plan**

Community Outcome:	3. A Well Governed City
Strategy:	3.1 Accountable Governance
Priority Action	3.1.1 The elected representatives will provide clear and unified direction, transparent decision makers and good governance

**Purpose**

To provide a summary to Council of Freedom of Information requests received in 2019/20.

**Recommendation (Chief Financial Officer)**

That Council:

1. Notes the summary of Freedom of Information requests received in 2019/20; and
2. Notes that a summary of Freedom of Information requests will continue to be reported annually.

**Key Points / Issues**

- At its meeting on 29 June 2020, Council resolved:  
*That Council:*
  1. Notes the updates in the Accountability and Transparency Reform (ATR) document;
  2. Notes the items in the ATR have been actioned or will be in place by December 2020, as detailed in the ATR document;
  3. Notes the items that have an ongoing obligation, will be raised within Council's Legislative Compliance system and a summary provided in the CEO's report, to ensure these continue to be actioned; and
  4. Resolves that this is the final update to Council on the ATR document.
- The ATR document proposed that information about Freedom of Information (FOI) requests received by Council be available online to allow the wider public to peruse Freedom of Information outcomes.
- Unlike FOI legislation in some other jurisdictions, the Victorian *Freedom of Information Act 1982* (FOI Act) does not provide for outcomes of specific FOI requests to be made public.
- Consequently, for the item relating to FOI in the ATR, it was proposed that a report of summary data about the FOI requests made to Council in the preceding financial year be provided to Council annually. The report would include summaries of the general types of documents requested and the data reported to the Office of the Victorian Information Commissioner (OVIC) regarding FOI operations. The report was to be provided to Council after the Office of the Victorian Information Commissioner's report to Parliament on the operation of Freedom of Information in Victoria had been published.

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- Freedom of Information provides a statutory right of access to documents held by government agencies. Anyone can seek access to any record held by Council. There is no requirement to explain the reason for the request. Protections for the rights of other parties, such as for personal privacy and commercially sensitive information, are provided in the legislated FOI process to balance this very broad right of access.
- The FOI Act establishes a formal statutory process for responding to requests, including appeal rights for all parties.
- Recent legislative amendments and updated FOI Professional Standards have significantly increased the work involved in processing requests and reduced the statutory timeframes for responding.
- Where possible, Council FOI staff release information and documents administratively outside of the formal FOI process. This option can provide the applicant with a quicker, cost free response that is tailored to their needs. It is also a less resource intensive option as formal FOI requests may take weeks or months to process and then proceed to review at OVIC and the Victorian Civil and Administrative Tribunal (VCAT).

**Access requests received in 2019/20**

- In 2019/20 Council received 76 requests for access to records and 1 request for records to be amended. Of the 76 access requests:
  - 17 were responded to formally under FOI and 59 (78%) were responded to administratively.
  - 58 requests were from individual residents (including support workers on behalf of residents). 5 requests were from personal injury lawyers. The remaining 13 requests were from a variety of applicants including planning and building consultants, insurance companies, students undertaking research and Council staff.
  - The main types of documents requested were:
    - Animal management, including dog attack incidents (17 requests)
    - Statutory town planning (10 requests)
    - Building (6 requests)
    - Property information, including rates and valuations (6 requests)
    - Complaints regarding properties (5 requests)
    - Maternal and Child Health (4 requests)
    - CCTV footage (4 requests)
    - Records of contact, including call recordings and live chat records (4 requests)
  - The majority of requests were from individuals seeking information relating to their own interaction with Council. Topics for non-personal requests for records included data relating to impoundment of animals, parking infringements, car parking fee revenue, and Council expenditure.

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- Council received some very large and complex requests which required extensive time and resources to process. Some requests involved processing thousands of pages of documents and considering statutory consultation with hundreds of third parties. These large and complex requests significantly impacted on Council's ability to meet the statutory timeframes for responding to all requests.
- Given the expanded statutory requirements associated with FOI processing, the steady trend of increasing numbers of access requests and the increasing complexity of requests, extra staff resources have been allocated to undertake FOI work with the aim of improving compliance with statutory timeframes.
- Only 1 FOI request progressed to OVIC. The FOI applicant made 2 complaints and also requested a review of the FOI decision. The decision was upheld by OVIC. The applicant subsequently sought review of the decision by VCAT.

**Data reported to the Office of the Victorian Information Commissioner for 2019/20**

- Data reported to the Office of the Victorian Information Commissioner (OVIC) relates to those access requests which meet the legislative requirements to be classed as valid FOI requests. The data also includes FOI requests carried over from the previous year. Access requests responded to administratively are not included in the data.
- Council reported 9 requests carried over from the previous year and 22 new FOI requests. The number of FOI requests received by other Victorian councils in 2019/20 varied widely and ranged from a council that did not receive any FOI requests through to a council that received 99 requests. Victoria-wide the number of FOI requests made to agencies has continued to steadily increase since the FOI Act was introduced.
- The following decisions were made in relation to finalised FOI requests:
  - Documents released in full for 9 requests.
  - Documents released in part for 3 requests.
  - Document withheld in full for 1 request – final document to be released administratively at later date.
  - The remaining requests were either satisfied administratively, not progressed by the applicant, or carried over to the following year.

**Financial Impact**

There are no financial implications associated with this report.

**Consultation****1. External Stakeholders**

Further information about the Victorian Information Commissioner's report to Parliament on the operation of the Freedom of Information Act in Victoria can be found at [ovic.vic.gov.au](http://ovic.vic.gov.au).

**2. Other Stakeholders**

Nil

**12.9 Freedom of Information Annual Summary 2019/20****Executive Summary****Analysis (Environmental / Economic / Social Implications)**

The right to seek access to, and amendment of, Council records under the Freedom of Information Act contributes to transparency and accountability in relation to Council operations. It also gives effect to the privacy right to access in relevant privacy legislation.

**Legal / Policy / Council Plan Impact**Charter of Human Rights and Responsibilities

All matters relevant to the Charter of Human Rights and Responsibilities have been considered in the preparation of this report and are consistent with the standards set by the Charter.

Legal

This report summarises how Council has exercised its statutory obligations under the FOI Act.

Policy Impacts

There is no impact on Council policies.

Officer's Declaration of Interests

Council officers involved in the preparation of this report have no Conflict of Interest in this matter.

**Risk Mitigation**

There is no risk associated with this report.

**Conclusion**

It is recommended that Council notes the summary of Freedom of Information activity in 2019/20.

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**ATTACHMENTS**

Nil

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**Officers' Assessment**