

POLICY:-	
Policy Title:	Gathering Information Policy
File Reference:	F10/618-06
Date Policy was adopted by Council initially:	22 November 2007
Resolution Number:	344/07
Other Review Dates:	17 June 2010, 17 October 2013 and 16 June 2016
Resolution Number:	235/10, 331/13 and 164/16
Current Policy adopted by Council:	21 September 2023
Resolution Number:	181/23
Next Policy Review Date:	2026

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Policy developed by:	Director of Finance and Administration
Committee/s (if any) consulted in the development of this Policy:	N/A
Responsibility for implementation:	Director of Finance and Administration
Responsibility for review of Policy:	Chief Executive Officer

1. BACKGROUND

It is best practice that Council adopts a formal policy supporting the consistent and systematic treatment and collection of information systems and procedures. Council must ensure that data is collected and records are maintained in a format that are of a standard that Courts and Magistrates would accept as admissible evidence. Accurate and consistent records management may discourage potential claimants from seeking redress in the Courts and is also an effective tool in the defence of liability and insurance claims.

2. OBJECTIVE

To document and review the required standard of Council generated information and data needed to assist in defending a public liability or professional indemnity claim and ensure that they constitute admissible evidence and that Council has acted in a manner which has fulfilled its duty of care to the public.

The above process is to support procedures for the gathering of information for such purposes, and should be read together with the Policies set out in clause 8.

3. PRINCIPLES

1. To comply with the Local Government Act 1993 and Regulations, and relation legislative requirements Council must gather and archive clear and concise records;
2. To meet operational business needs, accountability requirements and community expectations internal documents should be easily accessible and they must be structured to ensure that they capture the information required, and are presented in a manner that makes the information easy to interpret;
3. To ensure the protection of Council's financial position and comply with public interest considerations to maintain public confidence through active risk management and risk mitigation; and
4. To facilitate the minimum data requirements for information required to be used defending possible public and professional liability claims (whether via a complaint process, insurance claim, quasi-judicial body or Court).

4. POLICY STATEMENT

Upper Lachlan Shire Council aims to provide sustainability to the community by providing services and making decisions that enhance our quality of life, our economic and our natural environment. Council's responsible officers are all business managers who are committed to documenting and assisting business units within Council by distributing the adopted procedures for gathering information and managing information systems.

This policy, together with the procedures, provides the minimum data standards for the gathering of information. It is aimed at reducing the

information supplied by Council to stakeholders, including its solicitors, together with either information or data that is not detailed or unwanted additions that may render the information of little value in the defence of a potential claim.

The Checklist at Attachment 2 should be used to ensure that all the appropriate data is gathered and contains the appropriate information. Listed information source documentation from the Checklist must be appropriately recorded and archived in accordance with Council's records management requirements and directives and in accordance with the State Records Act 1998 and associated standards.

Council will, within its budgetary constraints and using existing information systems available to it, endeavour to ensure accurate and systematic information is maintained and stored appropriately.

By adopting the policy, Council is working towards enhancing Upper Lachlan Shire Council's image in keeping with Council's Vision and Mission articulated in the Council Community Strategic Plan and Delivery Program.

5. INCIDENT MANAGEMENT

Types of incidents

Work Health and Safety, work-related injury or illness to Council employees, volunteers, contractors

Public Interest

- Any failure to comply with the requirements of the protection of the public interest via proper public administration

Public Liability

- Traffic incident at council controlled road works
- Traffic incident on council controlled road network
- Injury of illness to member of the public at council controlled facility or infrastructure
- Injury, illness, loss or damage suffered by member of the public as a result of actions or activities of council staff, volunteers or contractors

Professional Indemnity

- Loss or damage suffered by a member of the public as a result of a Development Application determination
- Loss or damage suffered by a member of the public as a result of issue of a Certificate
- Loss or damage suffered by a member of the public as a result of technical design or advice supplied by council

Property

- Any occurrence of a workplace emergency
- Any occurrence of implementation of the Business Continuity Plan
- Any Failure of plant or equipment
- Any loss or damage to fleet, equipment or property asset from actions of staff, volunteers, contractors, visitors or members of the public

Environmental

- Any incident involving an environmental spill at council controlled facility or workplace

Financial

- Any occurrence of fraud or misappropriation
- Any occurrence of major cost over-run
- Any occurrence of failure in debtor, creditor and investment control systems

Governance

- Any occurrence of failure in Code of Conduct
- Any occurrence of fraud or misappropriation
- Any occurrence of significant reputation loss
- Any occurrence of project management failure
- Any occurrence of privacy principles failure

Procurement

- Any failure to comply with regulatory requirements
- Any failure to comply with probity requirements (per ICAC Guidelines)
- Any occurrence of corruption, fraud or misappropriation

Human Resources

- Information gathering relating to human resources are managed under separate Policies and procedures.

Legislative Compliance

- Any other failure in legislative compliance

It is essential that Council has a systematic process in place that can respond to these incidents in a uniform and coordinated manner, irrespective of type of incident.

Flowchart

A flowchart is the best way to visualise the incident process. An incident flowchart 'Incident procedure' at Attachment 1 is a graphical representation of the flow of information that typically occurs within council.

The flowchart is not intended to define the total process in dealing with a report of an incident or complaint, irrespective of type, but rather it deals with

the process of claims administration, highlighting the required process required when recording and reporting an incident, internally and to our insurance providers.

Claims Register

The Senior Accountant maintains a register of all insurance claims underway either internally or via third party claims processing.

6. RECORDS AND EVIDENCE

The implementation of a policy, supported by procedures and processes, will assist Council in its ability to produce records, in any data medium that are complete, concise, accurate and acceptable to a court of law.

Minimum Data, it must be recognised that preparing the necessary documentation is of little use if it does not contain the minimum data to make it acceptable in court. While this varies from document to document (See table below), each document should include as a minimum:-

- The date on which it was created
- The version number
- The name and, where appropriate, the signature of the author.

Orders of Discovery, an order for discovery is the process of identifying and disclosing to the other party to a legal action, all the documents that are relevant to the issues in the proceedings. This imposes obligations on a council to make a full and thorough search for all pertinent documents, including any in electronic form, particularly e-mails.

Legal Privilege is intended to provide confidentiality of communications between a client and their legal representatives. In legal proceedings parties are required to disclose all pertinent documents, in any form, to the other party.

If legal privilege is exercised on a document(s), it is not necessary to produce that document to the other party. However, it still must be provided to the Council lawyers.

In order to make a claim for privilege over a document Council must be able to demonstrate it was created for the dominant purpose of obtaining legal advice.

Document shall be marked "Privileged and Confidential", held in a suitable file marked "Legal in-Confidence" and kept in a secure area, not accessible by the general Council staff. Note: these marking along are insufficient to make a claim for privilege.

Assessment of communication methods and risk, Council creates many documents that are available to the public including reports, forms correspondence, brochures, fliers and registers. Council also make available information via websites, newsletters and signs.

Council needs to manage the risk that these documents, and other medium for dissemination information, pose if they are inaccurate, misleading, and out of date. Council also ensures that its documents contain sufficient data to be acceptable in Court.

7. LEGISLATIVE COMPLIANCE

- State Records Act 1998;
- Evidence Act 1995;
- Civil Liability Act 2002;
- Legal Profession Act 2004;
- Evidence on Commission Act 1995; and
- Electronic Transaction Act 1999.

8. RELATED POLICIES

- Incident Procedure Flowchart;
- Records Management Policy and Procedures;
- Information Technology Strategic Plan;
- Model Code of Conduct;
- Code of Business Practice;
- Business Continuity and Disaster Recovery Plan;
- Complaints Management Policy;
- Customer Service Charter;
- Customer Request Management Policy;
- Public Interest Disclosures Policy;
- Internal Audit and Risk Management Policy;
- Procurement Policy;
- Fraud and Corruption Policy; and
- Injury Management and Return to Work Policy and Procedures.

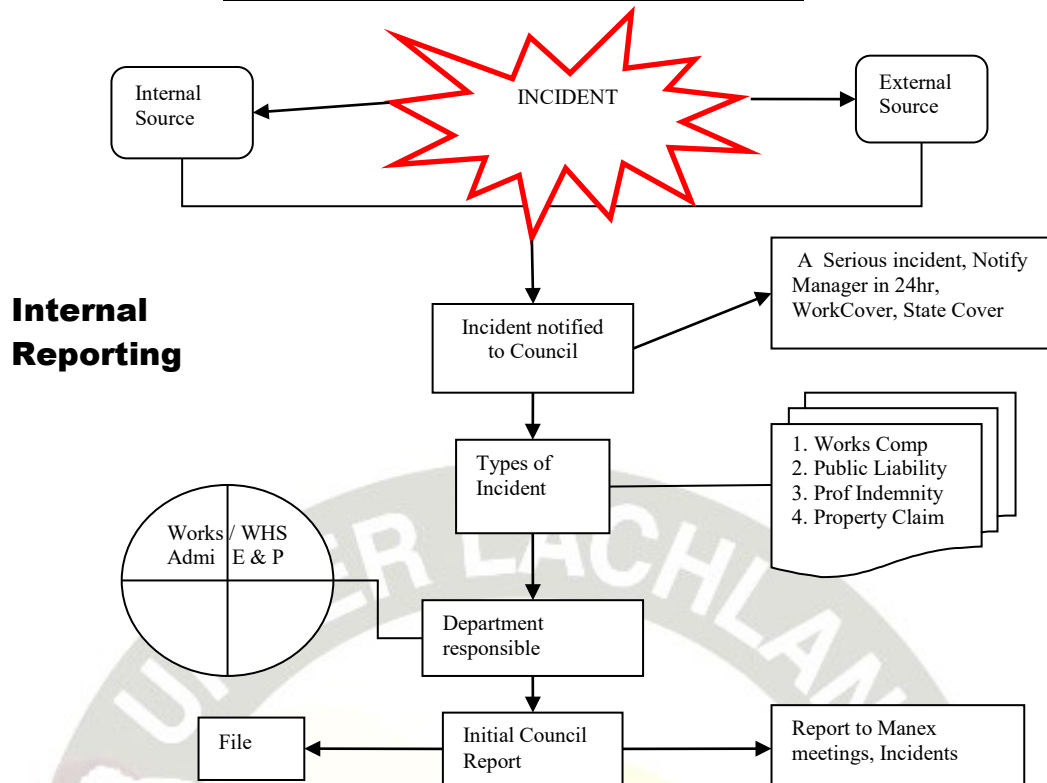
9. OTHER RELEVANT LEGISLATION

- Local Government Act 1993;
- Local Government (General) Regulations 2021;
- Environmental Planning and Assessment Act 1979;
- Privacy and Personal Information Protection Act 1998;
- Independent Commission against Corruption Act 1988;
- Public Interest Disclosures Act 2022;
- Roads Act 1993;
- Protection of the Environment Operations Act 1997;
- Government Information (Public Access) Act 2009; and
- Work Health and Safety Act 2011.

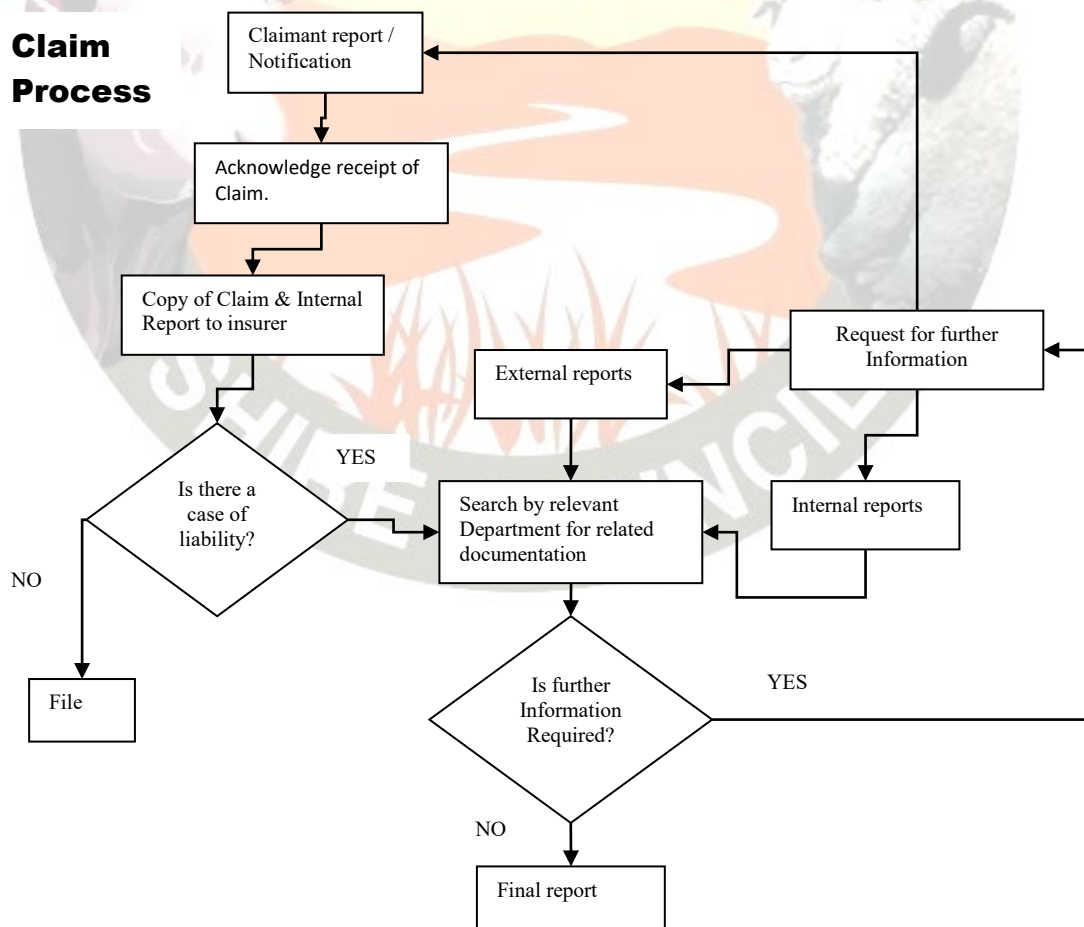
10. VARIATION TO POLICY

Council reserves the right to vary the terms and conditions of this policy.

ATTACHMENT 1 INCIDENT PROCEDURE FLOWCHART



Claim Process



ATTACHMENT 2 CHECKLIST FOR INFORMATION GATHERED BY COUNCIL

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
1.Works Program	A strategic document that prioritises works, linking timeframe and resources for individual capital works projects and/or maintenance activities.	Used to highlight Council's level of commitment to its infrastructure relative to its financial strength. Could be used to defend a statement claiming inaction by Council.	Financial year and date of preparation Version number and date of preparation Council minute of change (if appropriate)	Responsible Group: Infrastructure Waste, Water & Sewer Medium: Microsoft Excel data base (projects) Storage: I Drive, Microsoft projects Trim folder: F10/549-02
2.Work or Service Request (CRM)	A document requesting work to be completed by Council as a result of a potential risk found by an employee or a member of the public.	Used to highlight Council's identification of risks program. Could be used to defend a statement claiming inaction by Council.	Date Name of originator Specific location Unique identifier Referred to Priority (<i>currently being developed</i>) Action taken Date action taken Name and signature of person completing action (<i>currently only when physical works carried out</i>)	Responsible Group: Infrastructure Waste, Water & Sewer Medium: Customer Request Management System (CRM) Storage: Authority data base Trim folder: Nil
3.Inspection Record	A pro-forma document used by Council Officers to report on the general condition of the infrastructure and assets of Council.	Used to highlight Council's identification of risks program. Could be used to show that Council was there, has inspected and made recommendations including repair, thus able to defend a statement claiming negligence by Council	Date Name of inspecting officer Signature of inspecting officer Inspecting officer's position and department Specific location Unique identifier (<i>currently based on date of repair</i>) Recoverable List of recommendations	Responsible Group: Infrastructure Waste, Water & Sewer Medium: Microsoft Word and Excel documents Storage : I:/drive Trim folder: Various folders for individual funds
4.Maintenance Management System	MMS is used for the planning, organising, directing and controlling of maintenance work.	Work scheduling can be used to defend a statement claiming inaction by Council. The system can also record the type of maintenance activity performed at any given time and location. This data could be used to defend a statement claiming inaction or negligence .	Daily running sheet recoverable Date Name and signature of originator (<i>this will not appear on this document, it will be linked to the request or inspection record</i>) List of employees in gang Activity Number of employees Work achieved Location Audit trail	Responsible Group: Infrastructure Waste, Water & Sewer Medium/ Reflect Asset Maintenance System Storage Details: Reflect data base Trim Folder: Nil

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
5.Environmental Due Diligence Programs	A strategic document, dealing primarily with environmental management issues that prioritises works and sets out a timetable for completion.	Used as a defence in the case of a breach under the Protection of the Environment Operations Act (POEO Act) or a third party action claiming negligence or inaction by Council.	Date Name of originator Signature of originator Endorsed by Council Action plan with timetable for completion	Responsible Group: Environment & Planning Medium: Storage: Not specified Trim Folder: F13/192
6.Time Sheets and Plant Sheets	System of recording and allocating labour and plant costs, primarily for the purpose of payroll and project costing.	Useful in verifying the location of staff and resources on a particular day. Can assist in defending a statement claiming negligence by Council.	Date All changes crossed out are to be initialled Signature of employee All relevant data to be completed	Responsible Group: Finance & Administration Medium: Storage: Payroll & Human Resources Trim Folder: F13/193
7.Diary Entries	Diary entries are often used to record details of the scene of an incident and are regularly the basis of the "Initial Council Report". They can be a source for information such as weather, times, locations etc as well as staff attendances.	Used for evidence of staff attendances and actions taken or not taken. Could be used to defend a statement claiming negligence by Council.	Name Date Department Unique identifier Black Ink (preferable) Photocopy should show book binding Legible writing All entries signed and dated (full date dd/mm/yy) All activities noted	Responsible Group: Infrastructure Medium: Storage: Not specified Trim folder: F13/194
8.Work Practices/ Procedures	Written procedures produced by Council used to standardise Council's response to a particular task.	Used in verifying that the work undertaken by Council is routine and is performed to a prescribed level of quality. Could be used to defend a statement claiming negligence by Council.	Recoverable Details of implementation Dates	Responsible Group: General Governance Medium: Word, Excel, flowchart, forms Storage: I/drive, document folders Trim folder: F13/195
9.Photographs and Digital Capture	Pictures of specific locations or job.	Used to provide evidence of the physical appearance of a defect or work at a particular point in time. Could be used to defend a statement claiming negligence by Council.	Date taken Photographer name File/Claim Number Location and direction facing at location Colour	Responsible Group: Infrastructure Medium: Digital Storage: digital images, CD Trim folder: F13/196

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
10.Training Records	A detailed record of the training activities of all members of staff. Council's Training Plan and personnel files are used to source and store the training data for individual employees.	Used to verify Council's commitment to ensuring that staff members are well trained. Could be used to defend a claim of negligence .	Name of employee Name of trainer Employer of trainer Date of training Title of course(s) Brief course outline Duration of course Indication of successful completion Any results, certificates, licenses etc	Responsible Group: Finance & Administration Medium: Storage: Personnel Files and Council Training Plan Trim folder: Individual Personnel folder
11.Standards	A predetermined "benchmark" by which results or performance is measured. The "benchmark" can be set either by the particular industry or Council.	Used to highlight Council's commitment to best practice within its resources. Could be used to defend a statement claiming negligence by Council.	Name of standard Citation number of standard Name of issuing standards organisation Date standard approved/implemented Full copy of standard	Responsible Group: General Medium: Electronic, printed hard copy Storage: I/drive, filing cabinets Trim folder: F13/197
12.Site Visits	Routine site inspection documented by the inspecting officer, noting conditions found at the site.	Used to produce a detailed description of the condition of the site at a given point in time. Could be used to defend a statement claiming negligence and/or inaction by Council	Date of visit Location, address of site Name of inspector Names of any additional inspectors, escorts etc Field notes, photographs, diagrams all to be dated, signed	Responsible Group: Infrastructure Environment & Planning Medium: Storage: WH&S Officer and Committee Trim folder: F13/198
13.Interviews	As a result of a claim a recorded discussion between the relevant Council employees and the interviewing officer.	This is used to extract fact which dictates the course of the investigation. Could be used to defend a statement claiming negligence and/or inaction by Council.	Name of interviewer Name of individual being interviewed Job title of staff being interviewed Date of interview Time of interview Location interview taken Witness to interview Typed format for interview notes	Responsible Group: General Medium: Storage: Not specified Trim folder: F13/199
14.Statements	Is a first party testimony of fact!	It can be used as a record of an individual's account of the event. Could be used to defend a statement claiming negligence and/or inaction by Council.	Name of individual making statement Job title of staff making statement Date of statement Time of statement Location statement taken Witness to statement Signature (black pen) of person making statement Signature of person taking statement and witness Typed format for statement	Responsible Group: General Governance Medium: Storage: Insurance Documentation Requirements Trim Folder: F13/200

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
15. Annual Budget	A financial statement that details the projected income and expenditure for a financial year. It indicates the amount of financial resources able to be allocated to each function/project of Council.	Used to highlight Council's level of commitment to its infrastructure relative to its financial strength. Could be used to defend a statement claiming inaction by Council.	Date of report Version of report Financial year of report Date of Adoption or Budget Review	Responsible Group: Finance & Administration Medium: Storage: Budget as adopted by Council annually and Quarterly Budget Reviews Trim folder: F10/549-02
16. Drawings or plans	A graphical representation of the work area, work method or location of the incident.	Visually shows evidence of the work planned. Shows standards to which the work is to be performed. Could be used to defend a statement claiming professional negligence, inaction or design failure .	Legible format (size) A legend indicating name of draftsman, architect, company etc Reference to related drawings Total number of drawings in set Index number of drawing Direction of north recorded on drawing Drawing scale Date of drawing or plan	Responsible Group: Infrastructure Waste, Water & Sewer Medium: Storage: Paper/microfiche/electronic filing on I:/drive Trim folder: F13/201
17. Maps	Defines the exact location of the event.	Visually shows the location of the incident. Could be used to defend a statement claiming responsibility for an event where Council may not even be liable.	Date map was made Person/organisation drafting map (source) Direction of north recorded on map Scale of map Area depicted by map Legible format	Responsible Group: Infrastructure Environment & Planning Medium: Storage: GIS – MapInfo and Six Maps Trim folder: F13/202
18. Phone logs	Chronological record of calls made or received by Council officers.	Used as a record of proceedings, conversations and advice given over the phone. Could be used to defend a statement claiming negligence and/or inaction by Council.	Contained in book with binding (manual) Name of log book user (manual) Page numbers (manual) Date of call (manual & TRIM) Time of call (manual & TRIM) Name of caller (manual & TRIM) Summary of call (manual & TRIM)	Responsible Group: General Medium: Storage: Log book, diary entries and/or telephone accounts data Trim folder: F13/203

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
19. Medical reports	Is a written summary from an attending physician summarising the patient's condition.	Used to establish the degree of injury and disability and thus challenge punitive damages .	Name of examining physician Date of examination Reason for examination Type written format Signed by attending physician	Responsible Group: Medical Practitioner (outside source) and Human Resources Medium: Storage: Personnel files Trim folder: Individual personnel files
20. Expert reports	A written formal summary of certain circumstances of the claim, prepared by a specialist in the field of the incident.	Used to verify the specific facts of the incident by an expert with the relevant experience. Could be used to justify action or inaction .	Name of expert CV of expert List of publications by expert Reference number Signature of expert Date of investigation	Responsible Group: Specific Expert (outside source as required) Medium: Storage: Not specified Trim folder: F13/204
21. Weather reports	A record of the weather conditions that prevailed at a given time and location.	Used to verify the conditions at the time of the incident.	Date of event Date of inquiry Name of weather service Symbol of authority (letterhead, stamp) Contact telephone number of issuing authority	Responsible Group: Bureau of Meteorology (outside source) or Works Supervisors Medium: Storage Details: Not specified Trim folder: F13/205
22. E-mails	Records of requests or details made or received by Council Officers.	Used as a record of proceedings, conversations and advice received by e-mail. Could be used to defend a statement claiming negligence and/or inaction by Council.	Date and Time sent Name of person sent from Name of person sent to Name of person copy sent to Subject summary/title Details	Responsible Group: Finance & Administration Medium: Storage Details: Microsoft Outlook & Records Management System (EDMS) Trim folder: F13/206
23. Incident report	Records of incidents recorded in the field, in person or over the telephone.	Used as a record of incidents. Could be used to defend a statement claiming negligence and/or inaction by Council.	Minimum requirements should comply with the guidelines inserted into the front cover of each incident report book and in accordance with the type of incident being recorded.	Responsible Group: General Medium: Storage: Records Management - filed on relevant case file and legal file where necessary Trim folder: F13/208

INFORMATION SOURCE	DESCRIPTION	TYPICAL USE	REQUIREMENTS	ADDITIONAL INFORMATION
24. File Notes	Records of requests, phone calls, informal meetings or other details made or received by Council Officers.	Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council.	File Number: Name of person composing note: Date: Time: Subject summary/title: Details: Signature (black pen) and date (full date dd/mm/yy) Legible writing or typed on standard form template *signed file notes must be scanned into TRIM for signature storage	Responsible Group: General Medium: Storage: Records Management - filed on relevant case file Trim folder: F13/209
25. Council Policies	A formal written general statement of the governing body (Council).	Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council.	Date adopted Minute number File number Title Responsible Office Background Objective Principles Policy Statement	Responsible Group: Governance Medium: Storage: Directory I:/ drive / Policies & Procedures / ULSC Policy Manual Trim folder: F10/618-03
26. Management Directives	Is formally written and refers to a staff related matter, on the day-to-day administration of the Council.	Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council.	Date adopted File number Title Responsible Office Background Objective Principles Statement	Responsible Group: Governance Medium: Storage: Directory I:/ drive / Policies & Procedures and Manex meeting minutes stored on I:/ drive; and Records Management System (EDMS) Trim folder: F11/44