

Gathering Information – A Risk Management Policy

1 Document Information

Version Date <i>(Draft or Council Meeting date)</i>	22 May 2018
Author	Risk Management Coordinator
Owner <i>(Relevant director)</i>	Director of Finance & Corporate Services
Status – <i>Draft, Approved, Adopted by Council, Superseded or Withdrawn</i>	Adopted by Council
Next Review Date	Within 12 months of Council being elected
Minute number <i>(once adopted by Council)</i>	18/05/20

2 Summary

To provide guidance on the minimum type of data and information required to assist Council defend a public liability or professional indemnity claim.

3 Approvals

Title	Date Approved	Signature
Director of Finance & Corporate Services		

4 History

Minute No.	Summary of Changes	New Version Date
10/11/30	Adopted by Council at November meeting	15 November 2010
13/09/30	Readopted as per s165(4)	17 September 2013
18/05/20	Readopted as per s165(4)	22 May 2018

5 Reason

Council, on occasion is required to defend itself against litigation that can have an adverse effect on operations. The gathering of documented information recorded by Council must be recoverable, in a form that maintains document integrity under legal scrutiny, and to assist in successfully defending Council by being able to prove that Council has acted in manner which is not in breach of its duty of care. Accurate and consistent record keeping may serve to discourage any potential claims.

6 Scope

The Gathering Information Policy sets the criteria for the gathering of information for Council to be able to successfully defend a Public Liability or Professional Indemnity claim. It identifies requirements and budgetary constraints that may impact on a successful defence. The Policy directly affects Councillors, permanent, temporary and casual employees of Council, and includes volunteers, work experience persons and contractors.

7 Associated Legislation

Local Government Act 1993

State Records Act 1998

Civil Liability Act 2002

Government Information (Public Access) 2009

NSW Evidence Act 1995

Electronic Transactions Act 1999

WHS Act 2011

WHS Regulations 2011

Protection of the Environment Operations Act 1997 (2005)

8 Definitions

Adequate Information - Means that information recorded will include reference to all factors relevant to the particular matter. *Information Recorded in a Form that will maintain Integrity under Legal Scrutiny*: Means that information from Council Officers would be acceptable to a Court as admissible evidence in a liability case involving Council.

Duty of Care – “the obligation that a sensible person would apply/has when acting towards others and the public”

Due Diligence – “A fair attempt, or reasonable care or attention to a matter which is good enough to avoid a negligence claim”

Incident - An event that could result (or has resulted) in damage, injury or economic loss, in circumstances where allegations of negligence against Council may be made.

Information – “a collection of data that means something”

Knowledge Management – “the process by which an organisation uses its intellectual and knowledge-based capital to achieve its corporate objectives”

Records - “...any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means.”

Statewide Mutual Liability Scheme for Local Government - A cooperative of Local Government Authorities within New South Wales. The Statewide Mutual Scheme is managed by Jardine Lloyd Thompson and commends certain risk management (best practices) to the members.

9 Responsibilities

9.1 GM

The General Manager has overall responsibility to ensure that all Council staff comply with the Policy.

9.2 Directors and Managers

Directors and Managers are responsible for the control of the policy and procedures within their area of responsibility.

Supervisors

Supervisors are responsible for the maintenance of accurate information on the activities that they supervise.

9.3 Employees

Employees are responsible for taking reasonable steps to maintain accurate information as and when required. This occurs when they complete Council forms, and other forms of record.

9.4 Others

Councillors, casual employees of Council, volunteers, work experience persons and contractors are required to take adequate information and make it available to Council.

10 Related Documents

Document Name	Document Location
Records Management Policy Gathering Information for Incident Management Flow Chart	\\POLICY DATABASE\Management and Corporate Services\Organisation Management

11 Policy Statement

Cabonne Council endeavours to ensure a duty of care to staff and the community to improve the quality of life and create an environment for the future development within the Council area. Council has recognised that the management of risk is an essential element of sound management and impacts on every area of Council operation and activity.

This Policy, together with associated procedures, provides for the minimum data collection standards for the gathering of information. It ensures that appropriate information is gathered and recorded correctly ensuring sound knowledge management. In turn it maximises Council’s due diligence in that it reduces the amount of information supplied by Council to its solicitors that is currently inadmissible, together with information or data that is not

sufficiently detailed or contains unwanted admissions. This may render the information of little value in the defence of a potential claim.

The type and style of recording methods utilised will include records on InfoXpert, reports, service requests, diary entries and other forms of record but will be appropriate to the resources available, given Council's budgetary constraints. Council will endeavour to use its existing information systems to ensure the gathering and recording of accurate and appropriate information.