

INSTRUMENT OF DELEGATION

INSTRUMENT OF DELEGATION UNDER THE FREEDOM OF INFORMATION ACT 1991

28 OCTOBER 2022



CITY OF
MITCHAM

Delegation Sources

- Freedom of Information Act 1991

Positions

| Abbreviation | Position | Name |
|-------------------------|-------------------------|------|
| Chief Executive Officer | Chief Executive Officer | |
| No sub delegation | No sub delegation | |

Positions Groups

| Positions Group | Position | Positions |
|-------------------------|--|--|
| Accredited FOI Officers | Accredited Freedom of Information Officers | Accredited FOI Officer - 1, Accredited FOI Officer - 2, Accredited FOI Officer - 3, Accredited FOI Officer - 4, Accredited FOI Officer - 5 |

Instrument of Delegation under the Freedom of Information Act 1991

| Freedom of Information Act 1991 | | | | |
|---------------------------------|--|-------------------------|----------------------------|---------------------|
| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
| section 9(1a) | Publish an up-to-date information statement containing the information listed in section 9(2) in the manner prescribed by the regulations | Chief Executive Officer | | agency |
| section 10(1) | Cause copies of the most recent information statement and each policy document to be available for inspection and purchase by members of the public | Chief Executive Officer | | agency |
| section 15 | Take reasonably practicable steps to assist the applicant to provide information to enable the document to which the application related be identified | Chief Executive Officer | | agency |
| section 16(1) | Transfer an application for access to a document to another agency | Accredited FOI Officers | | agency |
| section 16(3) | Notify the applicant of the transfer of the application for access to a | Chief | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|--|-------------------------|----------------------------|---------------------|
| | document to another agency | Executive Officer | | |
| section 17(1) | Request the applicant to pay a reasonable amount by way of advance deposit if the cost of dealing with an application is likely to exceed the application fee | Accredited FOI Officers | | agency |
| section 17(2) | Request the applicant to pay a reasonable amount by way of further advance deposit if the cost of dealing with an application is likely to exceed the application fee and advance deposit already paid | Accredited FOI Officers | | agency |
| section 18(1) | Refuse to deal with an application if the work involved in dealing with the application would substantially and unreasonably divert the council's resources from their use by the council in exercise of its functions. | Accredited FOI Officers | | agency |
| section 18(2) | Assist an applicant to amend the application so that the work involved in dealing with the application would not substantially and unreasonably divert the council's resources from their use by the council in exercise of its functions. | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|----------------|---|-------------------------|----------------------------|---------------------|
| section 18(2a) | Refuse to deal with an application if the application is part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information | Accredited FOI Officers | | agency |
| section 18(3) | Refuse to deal with an application if the council has requested payment of an advance deposit and payment of the deposit has not been made within the period specified in the request | Accredited FOI Officers | | agency |
| section 18(4) | Refund any amount of advance deposit which exceeds the council's costs of dealing with the application, if the council refuses to deal with the application | Chief Executive Officer | | agency |
| section 18(5) | Provide notice to the applicant that the council is refusing to deal with the application | Chief Executive Officer | | agency |
| section 19(1) | Determine: (a) whether access to a document is to be given, deferred or refused; (b) any charge payable in respect of giving access; and | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|--|-------------------------------|----------------------------|---------------------|
| | (c) any charge payable for dealing with the application | | | |
| section 20(1) | Refuse access to a document | Accredited FOI Officers | | agency |
| section 21(1) | Defer access to a document | Accredited FOI Officers | | agency |
| section 22(1) | Determine the form of access to a document | Accredited FOI Officers | | agency |
| section 22(2) | Determine to provide access to a document in a form other than that requested by the applicant | Chief Executive Officer | | agency |
| section 22(4) | Agreeing with an applicant the form of access to a document | Accredited FOI Officers | | agency |
| section 22(5) | Refuse to give access to a document if a charge payable in respect of the application, or giving access to the document, has not been paid | Accredited FOI Officers | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|---|-------------------------|----------------------------|---------------------|
| section 23(1) | Notify an applicant to the agency's determination or, if relevant, that the agency does not hold the document | Chief Executive Officer | | agency |
| section 25(2) | Obtain the views of the government of the Commonwealth or of another State or a council (including a council constituted under the law of another State) as to whether a document is an exempt document | Chief Executive Officer | | agency |
| section 25(2) | Provide view as to whether a document is an exempt document | Chief Executive Officer | | council |
| section 25(3) | <p>Notify the relevant government or council</p> <p>(a) that the agency has determined to provide access to the document;</p> <p>(b) of the rights of review conferred by the Freedom of Information Act in relation to that determination; and</p> <p>(c) the procedures to be followed to exercise those rights of review</p> | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|------------------|---|-------------------------|----------------------------|---------------------|
| section 25(3)(d) | Apply for a review of a decision to provide access to a document under section 25(3) | Chief Executive Officer | | council |
| section 26(2) | Notify a person that access to a document containing information concerning his or her personal affairs is being sought under the Freedom of Information Act and seek that person's views on whether the document is an exempt document | Chief Executive Officer | | agency |
| section 26(3) | <p>Notify the relevant person:</p> <p>(a) that the agency has determined to provide access to the document;</p> <p>(b) of the rights of review conferred by the Freedom of Information Act in relation to that determination; and</p> <p>(c) the procedures to be followed to exercise those rights of review</p> | Chief Executive Officer | | agency |
| section 26(4)(c) | Form the opinion that disclosure of information may have an adverse effect on the physical or mental health, or emotional state, of the applicant | Accredited FOI Officers | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|---|-------------------------|----------------------------|---------------------|
| section 27(2) | Notify a person that access to a document concerning trade secrets, of a commercial value or concerning the business, professional, commercial or financial affairs of the person is being sought under the Freedom of Information Act and seek that person's views on whether the document is an exempt document | Chief Executive Officer | | agency |
| section 27(3) | <p>Notify the relevant person:</p> <p>(a) that the agency has determined to provide access to the document;</p> <p>(b) of the rights of review conferred by the Freedom of Information Act in relation to that determination; and</p> <p>(c) the procedures to be followed to exercise those rights of review</p> | Chief Executive Officer | | agency |
| section 28(2) | Notify a person that access to a document containing information concerning research that is being, or is intended to be, carried out by or on behalf of the person is being sought under the Freedom of Information Act and seek that person's views on whether the document is an exempt document | Chief Executive Officer | | agency |
| section 28(3) | Notify the relevant person: | Chief | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|---|-------------------------|----------------------------|---------------------|
| | (a) that the agency has determined to provide access to the document; (b) of the rights of review conferred by the Freedom of Information Act in relation to that determination; and (c) the procedures to be followed to exercise those rights of review | Executive Officer | | |
| section 29(3) | Confirm, vary or reverse a determination under Part 3 following an application for an internal review | No sub delegation | | agency |
| section 29(4) | Refund any application fee paid in respect of the internal review if the agency varies or reverses a determination so that access to a document is given | Chief Executive Officer | | agency |
| section 33 | Take reasonably practicable steps to assist an applicant to provide information to enable the identification of an agency's document to which access has been given | Chief Executive Officer | | agency |
| section 34(a) | Amend records in accordance with an application under section 30 | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|---------------|--|-------------------------|----------------------------|---------------------|
| section 34(a) | Refuse to amend records in accordance with an application under section 30 | Chief Executive Officer | | agency |
| section 35 | Refuse an application to amend records | Accredited FOI Officers | | agency |
| section 36(1) | Notify applicant of determination regarding an application to amend records or that the agency does not hold the record | Chief Executive Officer | | agency |
| section 37(2) | Add to the agency's record a notation specifying that the applicant claims that the record is incomplete, incorrect, out-of-date or misleading and including any information which the applicant claims is required to bring the record up-to-date | Chief Executive Officer | | agency |
| section 37(2) | Notify the applicant of the nature of the notation | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|----------------------|--|-------------------------|----------------------------|---------------------|
| section 37(3)(a) | Provide a statement to a person to whom the agency discloses information stating that the person to whom the information relates claims that the information is incomplete, incorrect, out-of-date or misleading and setting out the particulars of the notation added to its records in compliance with section 37(2) | Chief Executive Officer | | agency |
| section 37(3)(b) | Provide a statement as to the reasons for the agency's refusal to amend the records in accordance with the notation | Chief Executive Officer | | agency |
| section 38(3) | Confirm, vary or reverse a determination under Division 1, Part 4 following an internal review | No sub delegation | | agency |
| section 39(5)(c)(i) | Participate in a settlement between the participants to a review | Accredited FOI Officers | | agency |
| section 39(5)(c)(ii) | Request a suspension of the proceedings under section 39 to allow an opportunity for a settlement to be negotiated | Chief Executive Officer | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|------------------|--|-------------------------|----------------------------|---------------------|
| section 39(7) | Cooperate in a process proposed by a relevant review authority for the purposes of the conduct of an external review | Accredited FOI Officers | | agency |
| section 39(9)(a) | Advise a relevant review authority for the purposes of the conduct of an external review that a determination of the agency was made on grounds of the public interest | Chief Executive Officer | | agency |
| section 40(1) | Apply to South Australian Civil and Administrative Tribunal for a review of a determination by the relevant review authority on an external review on a question of law | Accredited FOI Officers | | agency |
| section 40(7) | Advise South Australian Civil and Administrative Tribunal that a determination of the agency was made on grounds of the public interest | Chief Executive Officer | | agency |
| section 41(1) | Apply to South Australian Civil and Administrative Tribunal to receive evidence and hear argument in the absence of the public, the other party to the review and the party's representative in respect of a restricted document | Accredited FOI Officers | | agency |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|-------------------------|---|-------------------------|----------------------------|---------------------|
| section 53(2a) | Waive, reduce or remit a fee or charge | Accredited FOI Officers | | agency |
| section 53(3) | Review a fee or charge on application of the person required to pay the fee or charge and if appropriate reduce the fee or charge | Chief Executive Officer | | agency |
| section 53(5) | Recover a fee or charge as a debt | Accredited FOI Officers | | agency |
| section 54AA(a) | Furnish information to the Minister as required by notice in the Gazette | Chief Executive Officer | | agency |
| section 54AA(b) | Comply with requirement of the Minister regarding furnishing and keeping records | Chief Executive Officer | | agency |
| clause 3(b), Schedule 1 | Provide notice that information would be protected from disclosure under a corresponding law of the Commonwealth or another State | Chief Executive | | council |

Freedom of Information Act 1991

| Provision | Power and Functions Delegated | Delegate | Conditions and Limitations | Capacity of Council |
|-------------------------------------|--|-------------------------|----------------------------|---------------------|
| | | Officer | | |
| clause 13(2)(b)(iii), Schedule 1 | Approve a term of a contract which contains matter the disclosure of which would constitute a breach of contract or found an action for breach of confidence | Chief Executive Officer | | agency |
| clause 13(6), Schedule 1 | Notify the Minister of the approval of a term of a contract in accordance with clause 13(2)(b)(iii) | Chief Executive Officer | | agency |