

COUNCIL POLICY NO: 020

Responsible Directorate	Office of the CEO
Responsible Section	Office of the CEO
Responsible Officer	Chief Executive Officer

OBJECTIVE:

To provide guidelines on the affixing of the Common Seal of the Town of Cambridge to certain documentation.

SCOPE:

This policy applies to all Directorates of the Town of Cambridge.

POLICY STATEMENT:

The attachment of the Common Seal requires the accompanying signatures of both the Mayor, or in their absence the Deputy Mayor, and the Chief Executive Officer or the person acting in that position. In the absence of the requirement to affix a Common Seal, the Chief Executive Officer is empowered under the *Local Government Act 1995* to authenticate a document. The requirement for the Common Seal to be affixed is therefore a question of balancing good governance with operational efficiencies.

A list of documents that have had the Common Seal affixed should be presented to the next available Council meeting.

Guidelines

The following documents will require the Common Seal of the Town of Cambridge to be affixed:-

- (a) Local Laws;
- (b) Land transactions, including but not limited to sale, leases, assignments, subleases, consent to mortgage, surrenders, transfers, lodgment and withdrawals of caveats and amalgamations as decided by Council;
- (c) Town Planning Schemes and Scheme Amendments;
- (d) Documents of a ceremonial nature (where the affixing of the Common Seal is for posterity rather than as a legal requirement); and
- (e) Any document stating that the Common Seal of the Town of Cambridge is to be affixed.

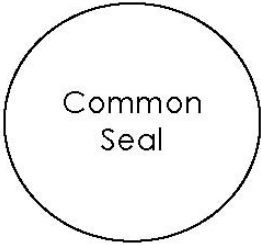
Additionally, the following procedures for the secure use of the Common Seal should be adopted:-

1. The Chief Executive Officer is to have charge of the Common Seal and is responsible for the safe custody and proper use of it.
2. The Common Seal may only be used on the authority of the Council given either generally or specifically and every document to which the Seal is affixed must be signed by the Mayor or in their absence the Deputy Mayor, and the Chief Executive Officer or a senior employee authorised by him or her.

- 3. The Administration is to record in a register each date on which the Common Seal was affixed to a document, the purpose of the document, and the number of copies Sealed. A report listing the documents to which the Common Seal has been affixed is to be presented to the next Ordinary Meeting of Council.
- 4. The wording to accompany the application of the Common Seal should be as follows:-

"Dated this (date) day of (month) (year)

*The Common Seal of the)
 Town of Cambridge)
 was hereunto affixed in the)
 presence of:)*



.....
(Insert name of Mayor)

.....
(Insert name of Chief Executive Officer)

Statutory implications:-

Common Law

Under Common law principles originally, the Common Seal of a body corporate was the only legally recognised expression of an act of that body corporate and the affixing of the Seal was sufficient to be legally binding. However these days, generally, this requirement is no longer in operation.

Agency Law

A body corporate has the legal capacity of a natural person and may act or express its intentions and enter into legal relations through authorised human agents. As such, a body corporate may enter into a contract regardless of whether or not the Common Seal is used to execute a document.

Corporations Law

Sections 126 and 127 of the *Corporations Act 2001* address the use of a Common Seal. These provisions do not apply to local governments which whilst a body corporate, falls within the definition of "exempt public authority" in section 9 of that Act.

Local Government Act 1995

Section 2.5(2) of the *Local Government Act 1995* stipulates that a local government is "a body corporate with perpetual succession and a Common Seal". Whilst it is clear that a local government, as a body corporate, has a Common Seal, there is no stipulated requirement for the use of the Common Seal in particular circumstances.

Section 9.49 stipulates that a document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its Common Seal if signed by the Chief Executive Officer or an employee of the local government who purports to be authorised by the Chief Executive Officer to so sign.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

Document Control

Office Use Only:

Previous Policy No	Policy No.1.2.13			
Statutory Legislation and Compliance	<i>Local Government Act 1995;</i>			
Related Documents/Legislation	<i>Town of Cambridge Meeting Procedures Local Law 2019</i>			
Date of Adoption by Council	Council Meeting – 28 September 2004			
Date Reviewed/Amended	27 May 2008 22 May 2018	27 April 2010 28 July 2020	22 May 2012	28 June 2016
Next Review Date	April 2024			