

## 5.6. MODEL MEETING PROCEDURES AND STANDING ORDERS

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### RECOMMENDATION

**That effective 3 December 2018, Councillors resolve to adopt the updated Standing Orders for Council Meetings General Policy.**

### EXECUTIVE SUMMARY

A new Standing Orders for Council Meetings template has been released by the Department of Local Government, Racing and Multicultural Affairs (DLGRMA). Douglas Shire Council's Standing Orders for Council Meetings General Policy has been updated to bring it into line with the Department's template. In addition, the Department's Model Meeting Procedures have been incorporated into Council's Standing Orders as Appendix 1.

### BACKGROUND

With the passing of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* on 21 May 2018, the *Local Government Act 2009* now provides for a more effective and streamlined system for dealing with Councillor Complaints.

As an outcome of this new legislation, Councils must either adopt the Department's Model Meeting Procedures or prepare and adopt their own procedures that are consistent with the Model Meeting Procedures.

Similarly, if a Local Government chooses to continue using their existing standing orders, Council is required to review the existing standing orders to ensure that they are consistent with the requirements of the Model Meeting Procedures.

To assist Local Governments, the Department has provided best practice standing orders that Councils can choose to adopt.

### PROPOSAL

That Council adopts the revised Standing Orders for Council Meetings General Policy to ensure compliance with recent legislation amendments.

### FINANCIAL/RESOURCE IMPLICATIONS

Nil

### RISK MANAGEMENT IMPLICATIONS

Council will mitigate any reputational risk by ensuring that it remains compliant to legislation amendments.

## **CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE**

This report has been prepared in accordance with the following:

### **Corporate Plan 2014-2019 Initiatives:**

#### **Theme 5 – Governance**

*5.2.2 - Implement adopted policies and guidelines to ensure consistency in administrative management which also encourages innovation in Council operations.*

## **COUNCIL'S ROLE**

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Regulator** Meeting the responsibilities associated with regulating activities through legislation or local law.

## **CONSULTATION**

**External:** Local Government legislation amendments training was provided by the DLGRMA training for Councillors and the Executive Leadership Team.

## **COMMUNITY ENGAGEMENT**

Nil

## **ATTACHMENTS**

1. DSC Standing Orders For Council Meetings General Policy Nov-2018 **[5.6.1]**

## STANDING ORDERS FOR COUNCIL MEETINGS GENERAL POLICY

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## INTENT

To provide written rules for the orderly conduct of Council Meetings.

## STANDING ORDERS

### 1. Standing Orders

- 1.1. These Standing Orders apply to all meetings of Council.
- 1.2. Any provision of these Standing Orders may be suspended by resolution of any meeting of Council. A separate resolution is required for any such suspension and must specify the application and duration of each suspension.
- 1.3. Where at a Council meeting a matter arises which is not provided for in these Standing Orders, such matter shall be determined by resolution of Council upon a motion which may be put without notice but otherwise in conformity with these Standing Orders.
- 1.4. These Standing Orders include the provisions of the Model Meeting Procedures published by the Department of Local Government, Racing and Multicultural Affairs attached at Appendix 1.

## PROCEDURES FOR MEETINGS OF COUNCIL

### 2. Presiding officer

- 2.1. The Mayor will preside at a meeting of Council.
- 2.2. If the Mayor is absent or unavailable to preside, the Deputy Mayor will preside.
- 2.3. If both the Mayor and the Deputy Mayor, or the Mayor's delegate, are absent or unavailable to preside, a Councillor chosen by the Councillors present at the meeting will preside at the meeting.

### 3. Order of business

- 3.1. Before proceeding with the business of the meeting, the person presiding at the meeting shall undertake the acknowledgement and/or greetings deemed appropriate by the Council.
- 3.2. The order of business shall be determined by resolution of Council from time to time. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect. A motion to alter the order of business may be moved without notice.
- 3.3. Unless otherwise altered, the order of business for ordinary Council meetings shall be as follows:
  - Attendances
  - Apologies and granting leaves of absence
  - Notice of Conflict of Interest and/or Material Personal Interest
  - Mayoral Minutes
  - Confirmation of Minutes
  - Agenda Items as listed
  - Notice of Motion

- Urgent Business
- Petitions
- Consideration of any closed session items
- Consideration of recommendations arising from discussions in a closed session

3.4. The minutes of a preceding meeting whether an ordinary or a special meeting, not previously confirmed shall be taken into consideration, at every ordinary meeting of Council, in order that such minutes may be confirmed and no discussion shall be permitted with respect to such minutes except with respect to their accuracy as a record of the proceedings.

## 4. Agendas

4.1. The Agenda may contain:

- Notice of meeting
- Minutes of the previous meetings
- Business arising out of previous meetings
- Business which the Mayor wishes to have considered at that meeting without notice
- Matters of which notice has been given
- Officers reports to Council referred to the meeting by the CEO
- Deputations and delegations
- Any other business Council determines by resolution be included in the Agenda

4.2. Business not on the Agenda or fairly arising from the Agenda shall not be considered at any Meeting unless permission for that purpose is given by Council at such meeting.

## 5. Petitions

5.1. Any petition presented to a meeting of Council shall:

- be in legible writing or typewritten and contain a minimum of ten (10) signatures
- must include the name and contact details of the Principal Petitioner (i.e., one person who is the organiser and who will act as the key contact for the issue)
- include the postcode of all petitioners, and
- have the details of the specific request/matter appear on each page of the petition.

5.2. Where a Councillor presents a petition to a meeting of Council no debate on or in relation to it shall be allowed and the only motion which may be moved is that:

- the petition be received; or
- the petition be received and referred to a responsible officer for consideration and a report to Council; or
- the petition not be received because it is deemed invalid.

5.3. Council will respond to the Principal Petitioner in relation to all petitions deemed valid.

## 6. Deputations

6.1. A deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven (7) clear days before the meeting.

6.2. The CEO, on receiving an application for a deputation shall notify the Chair who shall determine whether the deputation may be heard. The CEO shall inform the deputation of the

determination in writing. Where it has been determined the deputation will be heard, a convenient time shall be arranged for that purpose, and a time period allowed.

- 6.3. For deputations comprised of three or more persons, only three persons shall be at liberty to address Council unless the Councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation.
- 6.4. If a member of the deputation other than the appointed speakers interjects or attempts to address the Council, the Chair may finalise the deputation.
- 6.5. The Chair may terminate an address by a person in a deputation at any time where:
  - the Chair is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting
  - the time period allowed for a deputation has expired; or
  - the person uses insulting or offensive language or is derogatory towards Councillors or staff members.
- 6.6. The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

## MOTIONS

### 7. Motion to be moved

- 7.1. A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.
- 7.2. When a motion has been moved and seconded, it shall become subject to the control of Council and shall not be withdrawn without the consent of Council.
- 7.3. Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.
- 7.4. A motion brought before a meeting of Council in accordance with the *Local Government Act 2009* or these Standing Orders shall be received and put to the meeting by the Chair. The Chair may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
- 7.5. The Chair may call the notices of motion in the order in which they appear on the agenda, and where no objection is taken to a motion being taken as a formal motion, the Chair may put the motion to the vote without discussion.

### 8. Absence of mover of motion

- 8.1. Where a Councillor who has given notice of a motion is absent from the meeting of Council at which the motion is to be considered, the motion may be:
  - moved by another Councillor at the meeting; or
  - deferred to the next meeting.

### 9. Motion to be seconded

- 9.1. A motion or an amendment to a motion shall not be debated at a meeting of Council unless or until the motion or the amendment is seconded, with the exception of Procedural Motions and Mayoral Minutes.

## 10. Amendment of motion

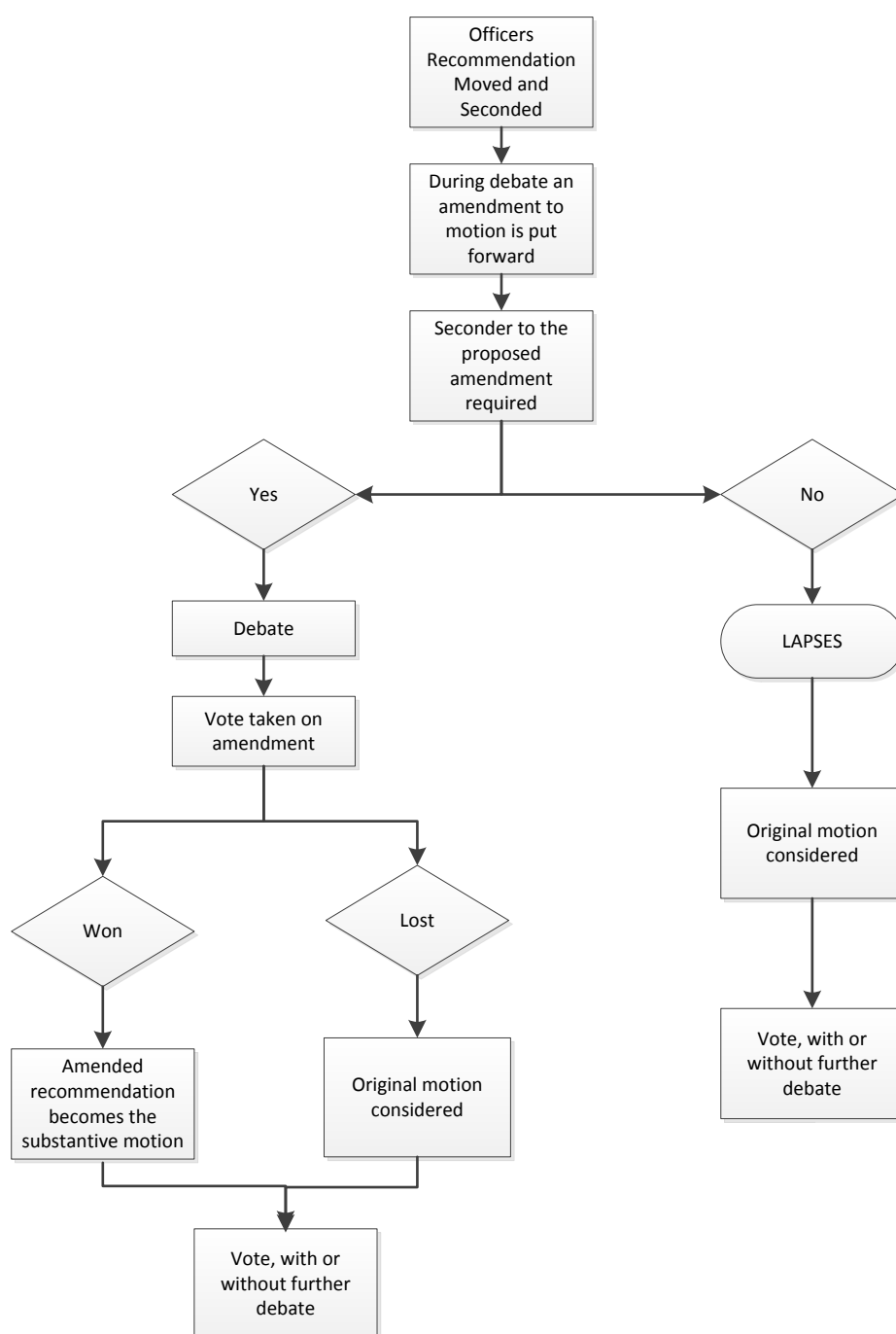
- 10.1. An amendment to a motion shall be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
- 10.2. Not more than one motion or one proposed amendment to a motion may be put before a meeting of Council at any one time.
- 10.3. Where an amendment to a motion is before a meeting of Council, no other amendment to the motion shall be considered until after the first amendment has been put.
- 10.4. Where a motion has been successfully amended by majority vote of Council and has become the substantive motion, the original recommendation can not be considered as an amendment to the substantive motion.

## 11. Speaking to motions and amendments

- 11.1. The mover of a motion or amendment shall read it and shall state that it is so moved but shall not speak to it until it is seconded.
- 11.2. The Chair will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chair will then call on any other Councillor who wishes to speak against the motion and then alternatively for and against the motion as available, until all Councillors who wish to speak have had the opportunity.
- 11.3. A Councillor may make a request to the Chair for further information before or after the motion or amendment is seconded.
- 11.4. A motion or amendment may be withdrawn by the mover thereof with the consent of Council, which shall be done without debate, and a Councillor shall not speak upon such motion or amendment thereafter once the mover has been granted permission by the Chair for its withdrawal.
- 11.5. The mover of a motion or amendment shall have the right to reply. Each Councillor shall speak no more than once to the same motion or same amendment except as a right of reply.
- 11.6. Each speaker shall be restricted to not more than five (5) minutes unless the Chair rules otherwise.
- 11.7. Where two or more Councillors indicate they may wish to speak at the same time, the Chair shall determine who is entitled to priority.
- 11.8. In accordance with Section 273 of the *Local Government Regulation 2012*, if a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an advisor of the Council, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.
- 11.9. For clarity, the following provides a summary of the process when moving the original recommendation with an amendment:
  - The motion is seconded.
  - The amended motion becomes the substantive motion.
  - The Chair opens the substantive motion to debate.
  - Should amendments be proposed then follow the steps in item 11.10 below.
  - The substantive motion is put to the vote.
  - If the vote is lost the original recommendation is then considered.

11.10. The following provides a summary of the process when an amendment is proposed to a motion during the debate process:

- The proposed amendment is seconded.
- The Chair opens the proposed amendment to debate.
- The amended motion is put to the vote.
- If the vote is won, the amended motion becomes the substantive motion.
- The substantive motion is put to the vote with or without debate. During the debate of the substantive motion further amendments may be considered.
- If the vote is lost, the original motion is then considered.





## 12. Method of taking vote

- 12.1. The Chair will call for all Councillors in favour of the motion to indicate their support. The Chair will then call for all Councillors against the motion to indicate their objection. A councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and of those voting in the negative. The Chair shall declare the result of a vote or a division as soon as it has been determined.
- 12.2. Councillors have the right to request that their names and how they voted be recorded in the minutes.
- 12.3. Except under the provision of Clause 13, the resolution shall not be discussed after the vote has been declared.
- 12.4. If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation.

## 13. Rescinding or amending resolutions

- 13.1. A resolution of Council may not be amended or rescinded unless a notice of motion is given in accordance with the requirements of Section 262 of the *Local Government Regulation 2012*.
- 13.2. Councillors present at the meeting at which a motion to rescind or amend a resolution is put may defer consideration of that motion. Such deferral shall not be longer than three months.

## 14. Procedural motions

- 14.1. A Councillor at a meeting of Council may, during the debate of a matter at the meeting, move, as a procedural motion, without the need for a seconder the following motions:
  - that the question/motion be now put
  - that the motion and amendment now before the meeting be adjourned
  - that the meeting proceed to the next item of business
  - that the question lie on the table
  - a point of order
  - a motion of dissent against the Chairs decision
  - that this report/document be tabled
  - to suspend the rule required that (insert requirement)
  - that the meeting stand adjourned.
- 14.2. A procedural motion that the question/motion be put, may be moved and where such a procedural motion is carried, the Chair shall immediately put the question to the motion or amendment to that motion under consideration. Where such a procedural motion is lost, debate on the motion or amendment to that motion shall continue.
- 14.3. The procedural motion that the motion or amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned. Where no date or time is specified:
  - a further motion may be moved to specify such a time or date; or
  - the matter about which the debate is to be adjourned, shall be included in the agenda for the next meeting.

- 14.4. Where a procedural motion that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion shall cease and may be considered again by Council on the giving of notice in accordance with the Standing Orders.
- 14.5. A procedural motion that the question lie on the table, shall only be moved where the Chair or a Councillor requires additional information on the matter before the meeting (or the result of some other action of Council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the Council shall proceed with the next matter on the agenda. The motion, that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.
- 14.6. Any Councillor may ask the Chair to decide on a point of order where it is believed that another Councillor has:
- failed to comply with proper procedures,
  - is in contravention of the Local Government Act / Regulations, or
  - is beyond the jurisdiction power of Council.

Points of order cannot be used as a means of contradicting a statement made by the Councillor speaking. Where a 'point of order' is moved, consideration of the matter to which the motion was moved shall be suspended pursuant to clause 10.2. The Chair shall determine whether the point of order is upheld.

Upon the question of order suddenly arising during the process of a debate, a Councillor may raise a point of order, and thereupon the Councillor against whom the point of order is raised, shall immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or order at any time arising shall, until decided, suspend the consideration and decision of every other question.

- 14.7. Councillor may move a motion of dissent in relation to a ruling of the Chair on a point of order. Where such motion is moved, further consideration of any matter shall be suspended until after a ruling is made. Where a motion of dissent is carried, the matter to which the ruling of the Chair was made shall proceed as though that ruling had not been made. Where as a result of that ruling the matter was discharged as out of order, it shall be restored to the agenda and be dealt with in the normal course of business.
- 14.8. The motion that this report/document be tabled, may be used by a Councillor to introduce a report or other document to the meeting, only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document it ceases to be a confidential document and is available for public scrutiny.
- 14.9. A procedural motion "to suspend the rule requiring that ...", may be made by any Councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule shall specify the duration of such a suspension.
- 14.10. A procedural motion that the meeting stands adjourned, may be moved by a Councillor at the conclusion of debate on any matter on the agenda or at the conclusion of a Councillor's time for speaking to the matter, and shall be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting the Council shall continue with the business before the meeting at the point where it was discontinued on the adjournment.

## 15. Conduct during meetings

- 15.1. Councillors will conduct themselves in accordance with the principles of the *Local Government Act 2009* and the standards of behaviour set out in the Code of Conduct. The Chair may

observe or be made aware of instances of possible unsuitable meeting conduct (*refer to Appendix 1*).

- 15.2. After a meeting of Council has been formally constituted and the business commenced, a Councillor shall not enter or leave from such meeting without first notifying the Chair.
- 15.3. Councillors shall speak of each other during the Council meeting by their respective titles, "Mayor" or "Councillor", and in speaking of or addressing officers shall designate them by their respective official or departmental title, and shall confine their remarks to the matter then under consideration.
- 15.4. No Councillor who is speaking shall be interrupted except upon a point of order being raised either by the Chair or by a Councillor.
- 15.5. When the Chair speaks during the process of a debate, the Councillor then speaking or offering to speak shall immediately cease speaking, and each Councillor present shall preserve strict silence so that the Chair may be heard without interruption.

## QUESTIONS

### 16. Questions

- 16.1. A Councillor may at a Council meeting ask a question for reply by another Councillor or an officer regarding any matter under consideration at the meeting. A question shall be asked categorically and without argument and no discussion shall be permitted at the meeting of Council in relation to a reply or a refusal to reply to the question. A Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next Meeting.
- 16.2. A Councillor who asks a question at a meeting, whether or not upon notice, shall be deemed not to have spoken to the debate of the motion to which the question relates.
- 16.3. The Chair may disallow a question which is considered inconsistent with an acceptable request or good order, provided that a Councillor may move a motion that the Chair's ruling be disagreed with, and if such motion be carried the Chair shall allow such question.

## MAINTENANCE OF GOOD ORDER

### 17. Disorder

- 17.1. The Chair may adjourn the meeting of Council where disorder arises at a meeting other than by a Councillor . On resumption of the meeting, the Chair shall move a motion, which shall be put without debate, to determine whether the meeting shall proceed. Where such a motion is lost, the Chair shall declare the meeting closed, and any outstanding matters referred to a future meeting.

## ATTENDANCE AND NON-ATTENDANCE

### 18. Attendance of public and the media at meeting

- 18.1. An area shall be made available at the place where any meeting of Council is to take place for members of the public and representatives of the media to attend the meeting and as many

members of the public as reasonably can be accommodated in that area shall be permitted to attend the meeting.

- 18.2. When the Council is sitting in Closed Session, the public and representatives of the media shall be excluded.
- 18.3. The resolution that Council proceed into Closed Session must specify the nature of the matters to be considered and these matters must be in accordance with Section 275 *Local Government Regulation 2012*. The Chair may direct any persons improperly present to withdraw immediately. Council must not make a resolution (other than a procedural resolution) in a closed session. Council must resolve to move out of closed session so that a resolution can be passed on the matters considered in Closed Session.

## 19. Public participation at meetings

- 19.1. A member of the public may take part in the proceeding of a meeting only when invited to do so by the Chair.
- 19.2. In a Meeting, time may be required to permit members of the public to address the Council on matters of public interest related to local government. The time allotted shall not exceed fifteen minutes and no more than three speakers shall be permitted to speak at any one meeting. The right of any individual to address the Council during this period shall be at the absolute discretion of Council.
- 19.3. If any address or comment is irrelevant, offensive, or unduly long, the Chair may require the person to cease making the submission or comment.
- 19.4. For any matter arising from such an address, Council may take the following actions:
  - refer the matter to the Chief Executive Officer
  - deal with the matter immediately
  - place the matter on notice for discussion at a future meeting
  - note the matter and take no further action.
- 19.5. Any person addressing the Council shall stand and act and speak with decorum and frame any remarks in respectful and courteous language.
- 19.6. Any person who is considered by the Council or the Mayor to be unsuitably dressed may be directed by the Mayor or Chair to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

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This policy is to remain in force until otherwise determined by Council.

Manager Responsible for Review: Manager Governance

ORIGINALLY ADOPTED: 20 May 2014

CURRENT ADOPTION: 20 November 2018

DUE FOR REVISION: November 2022

## **APPENDIX 1**

### **Model Meeting Procedures**



# Model Meeting Procedures

**October 2018**





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Any references to legislation are not an interpretation of the law. They are to be used as a guide only. The information in this publication is general and does not take into account individual circumstances or situations. Where appropriate, independent legal advice should be sought.

An electronic copy of this report is available on the Department of Local Government, Racing and Multicultural Affairs' website at [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au).



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## Purpose of the Meeting Procedures

The purpose of the Model Meeting Procedures is to set out certain procedures to ensure the Local Government principles are reflected in the conduct of Local Government meetings and Local Government committee meetings.

It is not intended that the Model Meeting Procedures would deal with all aspects of meeting conduct but only those required to strengthen public confidence in Local Government to deal with the conduct of Councillors in meetings.

## Background

In particular, as required under section 150F of the *Local Government Act 2009* (LGA) this document sets out:

- the process for how a Chairperson of a Local Government meeting may deal with instances of unsuitable meeting conduct by Councillors.
- the process for how suspected inappropriate conduct of a Councillor referred to the local government by the Independent Assessor (the Assessor) is to be dealt with at a Local Government meeting.

## Application

A Local Government must either adopt the Model Meeting Procedures or prepare and adopt other procedures for the conduct of its meetings and meetings of its committees that are consistent with the Model Meeting Procedures.

If a Local Government chooses to continue using existing standing orders, the Council must review the existing standing orders to ensure that they are consistent with the requirements of the Model Meeting Procedures. To assist Local Governments, the Department of Local Government, Racing and Multicultural Affairs (the Department) has published best practice standing orders that Councils can choose to adopt<sup>1</sup>.

A Local Government must conduct its meetings in a manner that is consistent with either the Model Meeting Procedures or its own procedures.

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<sup>1</sup> Section 150G of the LGA



## Processes

### 1. Process for dealing with unsuitable meeting conduct by a Councillor in a meeting

When dealing with an instance of unsuitable conduct by a Councillor in a meeting, the following procedures must be followed:

- 1.1 The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.
- 1.2 If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson must consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature, refer to 1.7 for the steps to be taken.
- 1.3 If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:
  - 1.3.1 Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
  - 1.3.2 Apologising for their conduct
  - 1.3.3 Withdrawing their comments.
- 1.4 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 1.5 If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request may result in an order being issued.
- 1.6 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 1.7 If the Councillor still continues to fail to comply with the Chairperson's request for remedial actions, the Chairperson may make one or more of the orders below:
  - 1.7.1 an order reprimanding the Councillor for the conduct
  - 1.7.2 an order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.<sup>2</sup>
- 1.8 If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting by an appropriate officer. The meeting must be adjourned whilst the Councillor is being removed.<sup>3</sup>
- 1.9 Following the completion of the meeting, the Chairperson must ensure:
  - 1.9.1 details of any order issued is recorded in the minutes of the meeting<sup>4</sup>
  - 1.9.2 if it is the third (3<sup>rd</sup>) or more order within a 12-month period made against a Councillor or the Councillor has refused to leave following an order issued to leave the meeting,

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<sup>2</sup> Section 150I(2) of the LGA.

<sup>3</sup> Section 150I(2)(c) of the LGA.

<sup>4</sup> Section 150I(3) of the LGA.



these matters are to be dealt with at the next meeting of the Local Government and treated as inappropriate conduct pursuant to the LGA<sup>5</sup>

- 1.9.3 the Local Government's Chief Executive Officer is advised to ensure details of any order made must be updated in the Local Governments Councillor Conduct Register pursuant to the LGA.

Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 1.1, 1.7 and 1.8 above.

## **2. Meeting process for dealing with suspected Inappropriate Conduct which has been referred to a Local Government**

Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor or under paragraph 1.9.2 of this document of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

After the completion of the investigation, the Local Government must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting, unless it has delegated responsibility for this decision under section 257 of the LGA.

When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, the Local Government must:

- 2.1 Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the *Local Government Regulation 2012* (the LGR).
- 2.2 When deliberating on the issue the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public. Should the complainant be a Councillor, that Councillor must inform the meeting of a personal interest and follow the conflict of interest procedures in Section 4.
- 2.3 The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.
- 2.4 If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:
  - 2.4.1 an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
  - 2.4.2 an order reprimanding the Councillor for the conduct
  - 2.4.3 an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
  - 2.4.4 an order that the Councillor be excluded from a stated Local Government meeting
  - 2.4.5 an order that the Councillor is removed, or must resign, from a position representing

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<sup>5</sup> Section 150J of the LGA.



the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee

- 2.4.6 an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
- 2.4.7 an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.
- 2.5 When making an order, the Local Government can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that the Local Government is reasonably satisfied is true.
- 2.6 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.
- 2.7 The Local Government must ensure the meeting minutes reflect the resolution made.

### 3. Material Personal Interest

Councillors are ultimately responsible for informing of a material personal interest on matters to be discussed at a Council or committee meeting. When dealing with a material personal interest, Councillors must abide by the following procedures:

- 3.1 A Councillor with a material personal interest must inform the meeting of the Local Government of their material personal interest and set out the nature of the interest, including:
  - 3.1.1 The name of the person or other entity who stands to gain a benefit, or suffer a loss, depending on the outcome of the consideration of the matter at the meeting
  - 3.1.2 How a person or other entity stands to gain the benefit or suffer the loss
  - 3.1.3 If the person or other entity who stands to gain the benefit or suffer the loss is not the Councillor – the nature of the Councillor's relationship to the person or entity.
- 3.2 The Councillor must then leave the place of the meeting and stay away while the matter is being discussed and voted on unless the subject Councillor has Ministerial approval to participate in the matter. The Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
- 3.3 Once the Councillor has left the area where the meeting is being conducted, the Local Government can continue discussing and deciding on the matter at hand.
- 3.4 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a material personal interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 3.5 The Chairperson then should ask the Councillor with the suspected material personal interest whether they do in fact have a material personal interest. If that is the case, the Councillor must follow the above procedures from item 3.1.
- 3.6 In the event the majority of Councillors inform a meeting of a material personal interest regarding a matter:



- 3.6.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or
  - 3.6.2 if the matter cannot be delegated under section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
- 3.7 Where a Councillor informs a meeting of a material personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:
- 3.7.1 The name of the Councillor who has a material personal interest in the matter
  - 3.7.2 The material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest
  - 3.7.3 Whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

#### 4. Conflict of Interest

Councillors are ultimately responsible for informing of any personal interest where they have a real or perceived conflict of interest on matters to be discussed at Council or committee meetings (other than ordinary business matters). When dealing with a conflict of interest, Councillors must abide by the following procedures:

- 4.1 A Councillor with a real or perceived conflict of interest must inform the meeting of the Local Government of their personal interest and set out the nature of the interest, including:
  - 4.1.1 The nature of the interest
  - 4.1.2 If the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person:
    - 4.1.2.i the name of the other person
    - 4.1.2.ii the nature of the relationship or value and date of receipt of the gift or benefit received, and
    - 4.1.2.iii the nature of the other person's interests in the matter.
- 4.2 The subject Councillor may themselves elect to leave the meeting while the matter is being discussed and voted on due to a perceived conflict of interest or conflict of interest. If the Councillor does not leave the meeting, they may advise the other Councillors why they believe they are able to act in the public interest while remaining in the meeting. This could include prior advice from the Integrity Commissioner on the personal interest.
- 4.3 The other Councillors entitled to vote at the meeting must then decide whether the subject Councillor has a conflict of interest (including a perceived conflict of interest) in the matter due to their personal interest. A Councillor who has declared a personal interest in relation to a matter, must not vote under section 175E(4) as to whether another Councillor may stay in the meeting.
- 4.4 If the other Councillors decide there is no conflict of interest or a perceived conflict of interest, the subject Councillor may remain in the meeting and the meeting may continue.
- 4.5 If the other Councillors decide there is a conflict of interest they must then decide whether



the subject Councillor must leave the meeting while the matter is being discussed and voted on or can participate in the meeting in relation to the matter including voting on the matter. If the Councillor must leave the place of the meeting the Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way

- 4.6 When deciding whether a Councillor may stay in a meeting and vote following the decision of a conflict of interest, the other Councillors must consider significant variables including, but not limited to:
  - 4.6.1 The size or significance of the benefit the subject Councillor stands to receive or benefit
  - 4.6.2 The benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision
  - 4.6.3 The closeness of any relationship the subject Councillor may have with a given person or group.
- 4.7 In making the decision under 4.6, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
- 4.8 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a real or perceived conflict of interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 4.9 The Chairperson then should ask the Councillor with the suspected conflict of interest to inform the meeting of any personal interest they have in the matter and follow the above procedures from item 4.1.
- 4.10 In the event the majority of Councillors inform of a personal interest in a matter:
  - 4.10.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA, or
  - 4.10.2 if the matter cannot be delegated under the section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
- 4.11 Where a Councillor informs a meeting of a personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:
  - 4.11.1 The name of the Councillor who has declared the conflict of interest
  - 4.11.2 The nature of the personal interest, as described by the Councillor
  - 4.11.3 The decisions made under 4.3 and 4.5 above
  - 4.11.4 Whether the Councillor participated in the meeting under an approval by the Minister
  - 4.11.5 If the Councillor voted on the matter, how they voted
  - 4.11.6 How the majority of Councillors voted on the matter.





## 5. Closed Meetings

Local Government and standing committees may resolve that a meeting be closed to the public if its Councillors or members consider it necessary to discuss any of the following matters:

- Appointment, dismissal or discipline of employees
- Industrial matters affecting employees
- Local Government's budget
- Rating concessions or contracts proposed to be made by the Local Government or starting or defending legal proceedings involving the Local Government
- Any action to be taken by the Local Government under the *Planning Act 2016 (PA)*, including applications made to it under the PA
- Business for which a public discussion would be likely to prejudice the interests of the Local Government or someone else or enable a person to gain a financial advantage.

A Local Government or committee must not make a resolution (other than procedural) in a closed session meeting. If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation.

- 5.1 To take an issue into a closed session, the Local Government must first pass a resolution to do so.
- 5.2 In the interests of accountability and transparency, the Local Government must specify the nature of the matter to be discussed and the reasoning of the Councillors for going into closed session.
- 5.3 If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session and name the topic to be discussed and a brief explanation of why it is deemed necessary to take the issue into closed session.
- 5.4 The minutes of a Local Government must detail the matter discussed and reasoning for discussing the matter in closed session. The Local Government must also ensure that it complies with the statutory obligations associated with recording of passed resolutions.

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