

Code of Practice - Procedures at Council Meetings

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RATIONALE

The role of a council is to manage its local area by acting as an informed representative and responsible decision-maker in the best interests of its community. Council can only make decisions and act through a majority vote of the Council (or Committee). The effectiveness of Council Meetings directly contributes towards accountability to the community.

Council meeting procedures are largely determined by the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations). In addition to the requirements of the Regulations, this Code of Practice identifies a number of discretionary procedures adopted by Council for Council meetings.

POLICY STATEMENT

Procedures at Council meetings are regulated by the *Local Government (Procedures at Meetings) Regulations 2013*. In accordance with these Regulations, Council is able to set discretionary procedures pursuant to Regulation 6. This Code of Practice is made pursuant to this Regulation and has been passed by a two thirds majority of Council Members.

The provisions set out in this Code of Practice reflect the provisions of the Regulations (including numbering) except where Council has utilised its discretionary powers. Regulations that have been varied by Council under these powers are highlighted in **bold** in this document.

OBJECTIVES

Guiding Principles

Council's approach to the conduct of its meetings adopts the **Guiding Principles** contained within the *Local Government (Procedures at Meetings) Regulations 2013* which state:

- Procedures should be fair and contribute to open, transparent and informed decision making;
- Procedures should encourage appropriate community participation in the affairs of the council;
- Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

PROCEDURES AT COUNCIL MEETINGS

1. City of Marion General Procedures

1.1 Council Meeting Close Time

Where Council meetings continue to 9.30pm, unless there is a specific motion adopted at the meeting to continue beyond this time, the meeting will be adjourned to a date and time specified as part of the motion.

1.2 Publication of Council Agenda

Council meeting Agendas will be uploaded to Council's website at least three clear days before the meeting and available for inspection upon request.

1.3 Late Items (Reports)

Late items (reports) listed on a circulated Agenda will be emailed and/or delivered to members prior to the scheduled meeting. Late reports will only occur where information has not been provided in time for the delivery of the Agenda and where an urgent Council decision is required.

1.4 Council Member Verbal Communications

Council Member has the right to speak for up to two minutes in the second meeting of Council every second month from February (with the exception of caretaker period).

1.5 Council Committee Reporting Obligations

Council Committees will report to Council in the form of the minutes from each committee meeting. The minutes will be received and noted. Any matters discussed by the Committee where a Council resolution is required is to be considered as separate resolutions to the receiving and noting of the Committee minutes.

1.6 Moving Items "En Bloc"

Items listed on the Agenda for Council consideration may be "moved en bloc".

1.7 Confidential Items (Section 90(2) *Local Government Act 1999*)

Any item that has been identified as potentially confidential may include a report from the CEO that identifies the reason why the report should be discussed with the exclusion of the public. Any recommendation to consider an item in confidence will be presented to Council or Committee in accordance with the requirements under the Act.

The Council or Committee will consider the recommendation of the CEO and determine whether the matter will be considered in confidence. This section should be read in conjunction with Council's Code of Practice – Access to Council and Committee Meeting Documents,

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which outlines how Council or Committee may apply the confidential provisions of the Act and restrict public access to the specific matter under consideration (and any associated documents).

A motion to move into confidence will not be considered a procedural motion and debate may occur on the motion to allow for sufficient consideration and a determination to be made which satisfies the clauses of the Act.

2. Commencement of Meetings and Quorums

Regulation 7

A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.

- 2.1 If the number of apologies received by the Chief Executive Officer indicates that a quorum will not be present at a meeting, the Chief Executive Officer may adjourn the meeting to a specified day and time.
- 2.2 If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the Chief Executive Officer, will adjourn the meeting to a specified day and time.
- 2.3 If a meeting is adjourned for want of a quorum, the Chief Executive Officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- 2.4 If a meeting is adjourned to another day, the Chief Executive Officer must-
 - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
 - (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

3. Minutes

Regulation 8

- 3.1 The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- 3.2 No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- 3.3 On the confirmation of the minutes, the presiding member will-
 - (a) initial each page of the minutes, which pages are to be consecutively numbered; and
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.

3.4 The minutes of the proceedings of a meeting must include-

- (a) The names of the members present at the meeting; and
- (b) in relation to each member present -
 - i. the time at which the person entered or left the meeting; and
 - ii. unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
- (c) each motion or amendment, and the names of the mover and seconder; and
- (d) any variation, alteration or withdrawal of a motion or amendment; and
- (e) whether a motion or amendment is carried or lost; and
- (f) any disclosure of interest made by a member; and
- (g) an account of any personal explanation given by a member; and
- (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
- (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and
- (j) details of any adjournment of business; and
- (k) a record of any request for documents to be tabled at the meeting; and
- (l) a record of any documents tabled at the meeting; and
- (m) a description of any oral briefing given to the meeting on a matter of council business; and
- (n) any other matter required to be included in the minutes by or under the Act or any regulation including:
 - i. a question on notice asked by a Council Member of which five clear days notice has been given together with the reply provided (refer also to Clause 4.2(b) of this Code of Practice).
 - ii. if resolved by Council Members present at the meeting at which the question is asked, details of a question without notice together with the reply provided (refer also to Clause 4.5 of this Code of Practice).

iii. In the event that a division is called by a member, the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote) (refer also to Clause 12.4 of this Code of Practice)

3.5 The minutes of relevant Council meetings will also include:

(a) Council Member communication reports to the following extent:

i. The Mayor's, Deputy Mayor's and Council Member reports (only the subject matter) where those reports have been provided in writing to the minute taker by 12 noon on the Wednesday next following the meeting.

ii. Types of activities to be included in reports are those attended by Council Members in their Representative or Civic capacity only. Examples include:

- Civic activities (e.g. citizenship ceremonies)
- Meetings with external bodies attended as Council Liaison
- Meetings with residents
- Training sessions attended

Attendance at Council meetings will not be recorded. Attendance at Development Assessment Panel or Committee meetings will be recorded.

(b) The name of a person or persons (representor) making a deputation. However, the details of the content of the deputation will not be included (refer also to Clause 6.9 of this Code of Practice).

(c) The time at which each item commences

3.6 Minutes will be forwarded by email to Council Members to confirm accuracy and then placed on Council's website by 5.00pm on the Friday next following the meeting, or at the latest, within five days after the meeting.

3.7 The minutes of the meetings will not include:

(a) Apologies received from Council Members

(b) Leave of Absences (except with the leave of the meeting)

(c) Voting Patterns other than Divisions or as required by legislation

4. Question

Regulation 9

- 4.1 A member may ask a question on notice by giving the Chief Executive Officer written notice of the question at least five clear days before the date of the meeting at which the question is to be asked.
- 4.2 If notice of a question is given under Clause 4.1:
- (a) the Chief Executive Officer must ensure that the question and answer is placed on the agenda for the meeting at which the question is to be asked; and
 - (b) the question and the reply must be entered in the minutes of the relevant meeting (refer also to Clause 3.4(n)(i) of this Code of Practice).
- 4.3 In relation to Questions with Notice, all questions and answers will be included in the agenda papers and the minutes therefore will not be read out at the relevant meeting.**
- 4.4 A member may ask a question without notice at a meeting.
- 4.5 Members are able to ask a maximum of three Questions without Notice at a Council meeting except with the consent of the meeting.**
- 4.6 The presiding member may allow the reply to a question without notice to be given at the next meeting.
- 4.7 Questions without Notice that were not answered at the same meeting will be entered into a register. This register will be tabled as an information report at the following meeting.
- 4.8 A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made (refer also to Clause 3.4(n)(ii) of this Code of Practice).
- 4.9 The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.**
- 4.10 Questions may be asked prior to the moving of a motion or during a debate on a motion for clarification purposes only. Such questions are not considered “questions without notice” as described in Clauses 4.4, 4.5, 4.7 and 4.8 of this Code of Practice.**
- 4.11 In asking a clarification question a member will not be considered to be speaking to the motion.**
- 4.12 Council Members may not express an opinion when seeking clarification but can provide factual / contextual background at the discretion of the Chair.**
- 4.13 A maximum of two clarification points may be asked by individual members in relation to each motion except with the consent of the presiding member.**
- 4.14 Members are encouraged to seek answers to questions prior to the Council meeting.

5 Petitions

Regulation 1

5.1 A petition to the council must-

- (a) be legibly written or typed or printed; and
- (b) clearly set out the request or submission of the petitioners; and
- (c) include the name and address of each person who signed or endorsed the petition.
- (d) be addressed to the council and delivered to the principal office of the council.

5.2 If a petition is received as detailed in 5.1, the Chief Executive Officer must ensure that the petition or a statement as to the nature of the request or submission and the number of signatures is placed on the agenda for the next ordinary meeting of the council.

5.3 Where further investigation is required on issues raised in a petition, the petition will be provided to the next meeting of Council from receipt of the petition to note the petition and a report providing further detail will be provided to Council once investigations have been completed.

5.4 On initial receipt of the petition, a summary and the first page only will be provided to Council. When the matter is considered the entire petition will be attached to the report.

6 Deputation

Regulation 11

- 6.1 A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- 6.2 The Chief Executive Officer must transmit a request received as detailed in Section 6.1 to the presiding member.
- 6.3 The presiding member may refuse to allow the deputation to appear at a meeting.
- 6.4 The Chief Executive Officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- 6.5 If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council.
- 6.6 The council may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- 6.7 A council may refer the hearing of a deputation to a council committee.
- 6.8 A deputation must not exceed five minutes except with the consent of the meeting.**

- 6.9 The name of the representor will be recorded in the minutes of a Council meeting however, the details of the content of the deputation will not be included (refer also to Clause 3.5(b) of this Code of Practice).**

7 Motions

Regulation 12

- 7.1 A member may bring forward any business in the form of a written notice of motion.
- 7.2 The notice of motion must be given to the Chief Executive Officer at least five clear days before the date of the meeting at which the motion is to be moved.
- 7.3 A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last periodic election of the council must be brought by written notice of motion.
- 7.4 If a motion as detailed in Clause 7.3 is lost, a motion to the same effect cannot be brought-
- (a) until after the expiration of 12 months; or
 - (b) until after the next periodic election, whichever is the sooner.
- 7.5 Where a notice of motion has been given by a member who is not present at the meeting the notice of motion may be moved by any other member present at the meeting.**
- 7.6 Notice of motions cannot be added to on the night of the meeting where the notice of motion is presented. Additions to notices of motions will be dealt with separately as a motion without notice.**
- 7.7 Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- 7.8 The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- 7.9 The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council.
- 7.10 A motion without notice may not be accepted, where in the opinion of the presiding member, the motion relates to a significant issue or substantive information is required in order to make an informed decision on the motion (Refer Clause 7.8 above). Such issues should be provided as written notices of motion.**
- 7.11 A motion will lapse if it is not seconded at the appropriate time.
- 7.12 A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion for no longer than two minutes (clause 10.1). If further time is required, it will be considered by the presiding member and granted at their discretion to a total maximum of five minutes.**

- 7.13 If the motion is seconded, the common practice of the meeting will be to put the motion without further debate/discussion unless there is a speaker against the motion.**
- 7.14 The common practice of the meeting will be to alternate speakers for and against the motion until the debate is complete.**
- 7.15 At the conclusion of the debate, if a member who has not already spoken wishes to raise a new matter that has not been covered in previous debate/discussion or a matter considered of high importance, they will be permitted to speak for a maximum of two minutes.**
- 7.16 A member may only speak once to a motion except –
- (a) To provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
 - (b) with leave of the meeting; or
 - (c) as the mover in reply.
 - (d) for the mover who may exercise a right to speak in closing the debate.
- for no longer than two minutes (Clause 10.1). The period of speaking may be extended with the consent of the presiding member.**
- 7.17 In exercising the right of reply (Clause 7.16) the mover must confine the remarks to responding to the issues raised in the debate and not introduce new material.**
- 7.18 A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.
- 7.19 A member who has not spoken in the debate on a question may move a formal motion.
- 7.20 A formal motion must be in the form of a motion set out in 7.17 (and no other formal motion to a different effect will be recognised).
- 7.21 If the formal motion is-
- (a) that the meeting proceed to the next business, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
 - (b) that the question be put, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or

- (c) that the question lie on the table, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
 - (d) that the question be adjourned, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
 - (e) that the meeting be adjourned, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- 7.22 If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- 7.23 A formal motion does not constitute an amendment to a substantive motion.
- 7.24 If a formal motion is lost-
- (a) the meeting will be resumed at the point at which it was interrupted; and
 - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (i.e., a motion to the same effect) cannot be put until at least one member has spoken on the question.
- 7.25 A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- 7.26 Any question that lies on the table as a result of a successful formal motion under 7.20 lapses at the next general election.
- 7.27 The Chief Executive Officer must report on each question that lapses under 7.25 to the council at the first ordinary meeting of the council after the general election.

8 Amendments to Motions

Regulation 13

- 8.1 A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.
- 8.2 An amendment must be relevant to the motion and so framed that it forms a sensible alternative proposal. It must not be a direct negation of the original motion.
- 8.3 An amendment will lapse if it is not seconded at the appropriate time.
- 8.4 A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.

- 8.5 If an amendment is lost, only one further amendment may be moved to the original motion.
- 8.6 If an amendment is carried, only one further amendment may be moved to the original motion.
- 8.7 Amendments are to be provided to the minute taker in writing to ensure accuracy of recording.**
- 8.8 Note a division can not be called on an amendment as an amendment to a motion is an alteration to the wording of a motion – it is not a motion in its own right.**

9 Variations etc.

Regulation 14

- 9.1 The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- 9.2 The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

10 Addresses by Members etc.

Regulation 15

- 10.1 A member must not speak for longer than two minutes at any one time without leave of the meeting.
- 10.2 Members are to speak through the Chair of the meeting when speaking to a motion.
- 10.3 A member may, with leave of the meeting, raise a matter of urgency.
- 10.4 A member may, with leave of the meeting, make a personal explanation.
- 10.5 The subject matter of a personal explanation may not be debated.
- 10.6 The contribution of a member must be relevant to the subject matter of the debate.
- 10.7 Members will address other members as Councillor during council meetings.**
- 10.8 Members may choose to sit or stand when addressing the Council meeting.**

11 Voting

Regulation 16

- 11.1 The presiding member, or any other member, may ask the Chief Executive Officer to read out a motion before a vote is taken.

- 11.2 The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- 11.3 A person who is not in his or her seat is not permitted to vote unless extenuating circumstances exist, in which case the Council Member may be located elsewhere within the Chamber, but not in an area designated a public area.**
- 11.4 For the purpose of clause 11.3 extenuating circumstances are;**
- infant or dependent care
 - injury
 - infirmity

12 Divisions

Regulation 17

- 12.1 A division will be taken at the request of a member.
- 12.2 If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- 12.3 The division will be taken as follows-
- (a) the members voting in the affirmative will, until the vote is recorded, stand in their places; and
 - (b) the members voting in the negative will, until the vote is recorded, sit in their seats; and
 - (c) the presiding member will count the number of votes and then declare the outcome.
- 12.4 The Chief Executive Officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- 12.5 Members wishing to vote in the affirmative but are unable (to stand) due to extenuating circumstances, may indicate their affirmative vote by raising a hand or by indicating in some other unambiguous manner.**
- 12.6 Members voting in the negative, who are not currently in their seats due to extenuating circumstances may indicate their negative vote by raising a hand or by indicating in some other unambiguous manner.**
- 12.7 A division cannot be called on an amendment to a motion as it is not a motion in its own right.**

13 Tabling of Information

Regulation 18

- 13.1 A member may require the Chief Executive Officer to table any documents of the council relating to a motion that is before a meeting (and the Chief Executive Officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).
- 13.2 The Chief Executive Officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

14 Adjourned Business

Regulation 19

- 14.1 If a formal motion for a substantive motion to be adjourned is carried-
- (a) the adjournment may either be to a later hour of the same day, to another day, or to another place; and
 - (b) the debate will, on resumption, continue from the point at which it was adjourned.
- 14.2 If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.
- 14.3 **The Presiding Member can allow for new business to be dealt with prior to business adjourned from a previous meeting.**

15 Short-term Suspension of Proceedings

Regulation 20

- 15.1 If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.
- 15.2 The Guiding Principles must be taken into account when considering whether to act in accordance with Clause 15.1.

- 15.3 If a suspension occurs in accordance with Clause 15.1
- (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
 - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension-
 - (i) the provisions of the Act must continue to be observed; and
 - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and
 - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
 - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and
 - (d) the period of suspension will come to an end if-
 - (i) the presiding member determines that the period should be brought to an end; or
 - (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

16 Chief Executive Officer may submit report recommending revocation or amendment of council decision

Regulation 21

- 16.1 The Chief Executive Officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.
- 16.2 The Chief Executive Officer must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.

17 Points of Order

Regulation 28

- 17.1 The presiding member may call to order a member who is in breach of the Act or these regulations.
- 17.2 A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach.
- 17.3 A point of order takes precedence over all other business until determined.
- 17.4 The presiding member will rule on a point of order.
- 17.5 If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.
- 17.6 The presiding member is entitled to make a statement in support of the ruling before a motion under 17.5 is put.
- 17.7 A resolution under 17.5 binds the meeting and, if a ruling is not agreed with-
- 17.7.1 the ruling has no effect; and
 - 17.7.1 the point of order is annulled.

18 Interruption of Meetings by Members

Regulation 29

- 18.1 A member of a council must not, while at a meeting-
- 18.1.1 behave in an improper or disorderly manner; or
 - 18.1.2 cause an interruption or interrupt another member who is speaking.
- 18.2 Clause 18.1(b) does not apply to a member who is-
- 18.2.1 objecting to words used by a member who is speaking; or
 - 18.2.2 calling attention to a point of order; or
 - 18.2.3 calling attention to want of a quorum.

18.3 If the presiding member considers that a member may have acted in contravention of Clause 18.1, the member must be allowed to make a personal explanation.

18.4 Subject to complying with Clause 18.3, the relevant member must leave the meeting while the matter is considered by the meeting.

18.5 If the remaining members resolve that a contravention of Clause 18.1 has occurred, those members may, by resolution-

18.5.1 censure the member; or

18.5.2 suspend the member for a part, or for the remainder, of the meeting.

18.6 A member who-

18.6.1 refuses to leave a meeting in contravention of Clause 18.4; or

18.6.2 enters a meeting in contravention of a suspension under Clause 18.5, is guilty of an offence and the Maximum penalty is \$1,250

19 Interruption of Meetings by Others

Maximum Penalty \$500
Regulation 30

19.1 A member of the public who is present at a meeting of a council must not-

19.1.1 behave in a disorderly manner; or

19.1.2 cause an interruption.

20 Disruptive Behaviour by Members of the Public

20.1 Disruptive behaviour is to be assessed on a continuum. It amounts to more than strong emotions or opinions expressed during the course of discussion in a public forum and it is more than the expression of controversial and/or extreme points of view.

20.2 Generally, 'disruptive behaviour' is that which interferes with the business of the Council. The persistence, severity, and nature of the behaviour are key factors in determining the level of disruptiveness and the degree of tolerance with the perpetrator(s) of the disruptive behaviour and the nature of the action that Council will take to address the behaviour. Examples include (but are not necessarily limited to):

20.2.1. talking when others are speaking;

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- 20.2.2. constant interjection, particularly when the Presiding Member or Elected Members present at the Council Meeting are speaking, but also when Council staff, consultants or the public are addressing the Council Meeting;
- 20.2.3. refusal to accede to a Presiding Member's lawful and reasonable instructions, particularly when asked to desist from disruptive behaviour;
- 20.2.4. verbal badgering;
- 20.2.5. frequent interruptions (including of a non-verbal nature);
- 20.2.6. audible mobile phone use in a public forum;
- 20.2.7. swearing or using derogatory and demeaning language;
- 20.2.8. unreasonably monopolising public opportunities for discussion and refusal to give up the floor to allow other members of the public to ask questions;
- 20.2.9. stalking or intimidation;
- 20.2.10. verbal or physical threats or any other aggressive or threatening behaviour towards either Elected Members, Council staff or other members of the public;
- 20.2.11. erratic, or otherwise odd or unusual behaviour;
- 20.2.12. excessive noise-making;
- 20.2.13. appearing to be under the influence of intoxicating alcohol or drug use; and
- 20.2.14. physical aggression to other people or property.

20.3 Council notes that some of the above behaviours constitute a criminal offence, and Council will take appropriate action, as required, in such circumstances, including by calling the South Australia Police (SAPOL) and/or making a report to SAPOL.

21 Dealing with Member of the Public Disruptive Behaviours

- 21.1 Decisions about whether disruptive behaviour is occurring, and the appropriate action to take in the circumstances, will be made by the Presiding Member, in accordance with this Code of Practice.
- 21.2 If, in the view of the Presiding Member, the behaviour is considered to be disruptive, the person (or persons) will be directed to cease such behaviour immediately.
- 21.3 Should the behaviour continue, and is, in the view of the Presiding Member, disrupting the orderly conduct of Council business, the Council may adjourn the Council Meeting for a stated period of time. The details of the adjournment (including the reasons) must be included in the minutes.

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- 21.4 During that adjournment the Presiding Member and the Chief Executive Officer (CEO) (or delegate) will discuss the appropriate management of the situation with the person (or persons) involved, advising them of their statutory obligations and requesting that they cease disrupting the Council Meeting. The Elected Members will not engage with the person (or persons) involved during this time but, rather, will remove themselves from the situation while the Presiding Member and the CEO discuss the matter with the disruptive person(s).
- 21.5 If, after resuming the Council Meeting, the disruptive behaviour continues, the Presiding Member may take one or more of the following actions:
- 21.5.1. Request the assistance of a member of SAPOL to attend the Council Meeting and remove the offending person(s) pursuant to Section 18A(2) of the Summary Offences Act 1953, and/or any other relevant legislative provision, and, in conjunction with the CEO seek to have the person(s) prosecuted for a breach of Section 18A(1) of the Summary Offences Act 1953, and/or any other relevant legislative provision that may have been breached in the circumstances.
 - 21.5.2. In the event that a member of SAPOL is not immediately available to attend, the Council Meeting will remain adjourned until such time as a member of SAPOL can attend, or after a reasonable period of time has elapsed (as determined by the Presiding Member), the Council Meeting will be adjourned to a time and date to be fixed.
 - 21.5.3. As soon as practicable following the Council Meeting (that has either naturally concluded or has been adjourned in accordance with 21.3), if a member of SAPOL has been unable to attend, the Presiding Member, in conjunction with the CEO, will arrange for a comprehensive report to be made to SAPOL regarding the behaviour exhibited and setting out the identity of the person(s) (if known).
 - 21.5.4. The Council will also consider any other legal avenues that may be open to it, including making application for an intervention order to restrict a person's access to Council land and/or Council meetings as may be appropriate.
- 21.6 In all cases, the Council will, upon the outcome of any successful prosecution or other civil action, seek to recover from the offending person or persons, its full indemnity costs in pursuing the matter.
- 21.7 Upon the outcome of any successful prosecution as part of the sentencing process, the Council will in all cases:
- 21.7.1. make application to the Court for an order restraining the offending person(s) from attending at any Council Meeting for a period of no less than six calendar months; and
 - 21.7.2. make submissions to the Court that a criminal conviction be recorded against the offending person(s).
- 21.8 Nothing in this Policy prevents an Elected Member, Council employee or member of the public from making their own report in relation to disruptive behaviours to the appropriate public authority, and taking any lawful action they consider appropriate in the circumstances.

22 Ability to Conduct Committee Meetings Electronically

Section 90(7a)

22.1 Committee Meetings of Council established under Section 41 of the *Local Government Act 1999* may be held via telephone or other electronic means:

- (a) When notice is given by the Presiding Member of the intent to hold the meeting electronically in the circumstance the meeting cannot be held in person. Notice must be given at the time the agenda is made available or earlier;
- (b) Due to individual circumstances where a Committee Member is unable to attend, they may after seeking approval from the Presiding Member and confirmed by the CEO join the meeting electronically;
- (c) Whilst participating in a Committee Meeting in accordance with this clause a Committee Member shall be considered as being present at the meeting for all purposes.

DEFINITIONS

In these procedures, unless the contrary intention appears-

"**Act**" means the *Local Government Act 1999*;

"**clear days**" means days, inclusive of Saturdays, Sundays and public holidays, which do not include:

- the day on which the notice is given
- the day on which the meeting occurs

"**deputation**" means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

"**electronic**" means includes a telephone, computer or other electronic device used for communication.

"**formal motion**" means a motion-

- (a) that the meeting proceed to the next business; or
- (b) that the question be put; or
- (c) that the question lie on the table; or
- (d) that the question be adjourned; or
- (e) that the meeting be adjourned¹;

"**member**" means a member of the council or council committee (as the case may be);

"**point of order**" means a point raised to draw attention to an alleged breach of the Act, Regulations or this Code of Practice in relation to the proceedings of a meeting;

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"**presiding member**" means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding/chairing at a particular meeting.

"**written notice**" means legibly hand written or typed in either hard copy or email form.

REFERENCES

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

REVIEW AND EVALUATION

Review 2022/23

Public Health Emergency: Amendments to Allow Electronic Participation in Council Meetings

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999 (Notice No 1)* varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

For the avoidance of doubt, save for the alterations to the Code of Practice as set out below, this Code of Practice otherwise applies to all meetings of the Council.

Alterations to this Code of Practice to Facilitate Electronic Participation

Definitions

Act means the *Local Government Act 1999*.

regulations means the *Local Government (Procedures at Meetings) Regulations 2013*.

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disconnection of the electronic includes:

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

Attendance at Council Meetings

Members of the Council may participate in a meeting of the Council by electronic means if the reason for not attending in person is related to COVID-19.

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

Quorum

Regulation 7

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.

Leave of the Meeting

A vote on whether ***leave of the meeting*** is granted may be conducted by:

- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

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A division may be called in relation to the vote.

Adjourned Meetings

Regulation 7

If a meeting is adjourned to another day, the Chief Executive Officer must:

- (a) give notice of the adjourned meeting to each member of the Council setting out the date, time and place of the meeting;
- (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the Chief Executive Officer.

Minutes

Regulation 8

On confirmation of the minutes the presiding member may initial or sign the minutes in hardcopy or electronically.

The minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

Example:

The following are examples of methods of attendance:

- (a) physical attendance;
- (b) by an audio-visual link;
- (c) by an audio link;
- (d) by telephone.

Petitions

Regulation 10

A petition must be addressed to the Council and delivered to the Council by means determined by the Chief Executive Officer as follows:

- Via post - PO Box 21, Oaklands Park SA 5046
- Via email – council@marion.sa.gov.au

Deputations

Regulation 11

A person or persons wishing to appear as a deputation at a meeting must deliver (to the Council by means determined by the Chief Executive Officer as set out below) a written request to the Council.

- Via post - PO Box 21, Oaklands Park SA 5046
- Via email – mayor.ea@marion.sa.gov.au

A person or persons wishing to appear as a deputation at a meeting may appear by electronic means.

The Chief Executive Officer will (with respect to a request that has not been refused), when informing the person or persons who requested the deputation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.

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Voting

Regulation 16

A vote in relation to a question for decision before the Council may be taken:

- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

The presiding member, or any other member, may ask the Chief Executive Officer to read out a motion or amendment before a vote is taken.

In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Divisions

Regulation 17

A division is taken as follows:

- (a) except for a member participating in a meeting by electronic means which has audio only:
 - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places;
 - (ii) the members voting in the negative will, until the vote is recorded, sit in their seats;
 - (iii) the presiding member will count the number of votes and then declare the outcome;
- (b) where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.

Form of Participation by Electronic Means

Where:

- (a) a Council member is to participate in a Council meeting by electronic means; and
- (b) the electronic means has the functionality to allow the Council member to participate in the meeting by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the Council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

Suspension of other Inconsistent Provisions

To the extent that any other discretionary provision of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.

In circumstances where a provision is suspended under this paragraph, the presiding member may give

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directions to a member of the Council in respect of an alternative method of compliance with the suspended provision.

Any member who disagrees with a direction of the presiding member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

Expiry of Public Health Emergency Amendments

In accordance with Section 302B(2)(d)(ii), the amendments have effect until 28 days after the cessation of all relevant declarations relating to the emergency to which the notice relates.