

Model Meeting Procedures

Conduct of local government meetings and its committee meeting

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Purpose of the Model Meeting Procedures

The purpose of the model meeting procedures is to set out certain procedures to ensure all the local government principles are reflected in the conduct of local government meetings, standing and advisory committee meetings as defined in the *Local Government Act 2009* (LGA), *Local Government Regulation 2012* (LGR), the *City of Brisbane Act 2010* (COBA) and the *City of Brisbane Regulation 2012* (COBR). However, model meeting procedures do not apply to meetings of the local government's audit committee.

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, conflict of interest of councillors, loss of quorum and closed meetings.

Meeting Principles

Local government meetings must adhere to the following principles:

- Transparent and effective processes and decision making in the public interest
- Sustainable development management and delivery of effective services
- Democratic representation, social inclusion and community engagement
- Good governance of, and by the local government
- Ethical and legal behaviour of councillors, local government employees and councillor advisors.

Background

As required under section 150F of the 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 (IA) is to be dealt with at a council meeting
- the processes for dealing with conflicts of interests and recording them
- the process for dealing with a loss of quorum
- procedures for closed meetings.

Application

A local government must either adopt the model meeting procedures or prepare and adopt other procedures for the conduct of its local government meetings, standing and advisory committee meetings.

A local government's meeting procedures and standing orders must be consistent with the model meeting procedures. If there is any inconsistency with the documents, then the local government is taken to have adopted the model meeting procedures to the extent of the inconsistency.

To assist local governments the Department has published best practice example **standing orders** that local governments can choose to adopt. These are published on the departmental website.

A local government must conduct its meetings in a manner that is consistent with either the model meeting procedures, or its own standing orders provided they are consistent with sections 1-8 below of these model meeting procedures.

Processes

1. Process for Dealing with Unsuitable Meeting Conduct by a Councillor in a Meeting.

The conduct of a councillor is unsuitable meeting conduct if the conduct happens during a council meeting and contravenes a behavioural standard of the **Code of Conduct for Councillors**. 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 reasonably believe that the conduct of a councillor during a meeting is unsuitable meeting conduct.
- 1.2. If the chairperson decides the unsuitable meeting conduct has occurred, the chairperson may 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 or another warning is unwarranted, the chairperson can make an order in relation to the conduct under 1.7 below.
- 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 action such as:
 - 1.3.1. Ceasing and refraining from exhibiting unsuitable meeting 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 could 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 continues to fail to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 1.5, 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.
- 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.
- 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
 - 1.9.2. If it is the third or more order made within a 12-month period against a councillor, or the councillor has refused to comply with an order issued to leave the meeting, these matters are dealt with at the next meeting of the council as suspected inappropriate conduct
 - 1.9.3. The council's chief executive officer (CEO) is advised to ensure details of any order made is updated in the council's councillor conduct register.
- 1.10. 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.
- 1.11. If the conduct of a councillor at the meeting becomes inappropriate conduct; in accordance with section 150J of the LGA, it is not required to be notified to the independent assessor and may be dealt with under section 150AG of the LGA at the next council meeting.

Note: Chairpersons of a meeting are carrying out a statutory responsibility under the LGA and COBA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting, this involves a breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct. The breach can be referred to the Office of the Independent

Assessor (OIA) to be dealt with. However, breaches of trust don't arise because councillors disagree with the chairperson's decision or ruling during the meeting.

2. Meeting Procedures for Dealing with Suspected Inappropriate Conduct including that which has been Referred to a Local Government by the Independent Assessor

Pursuant to Chapter 5A, Part 3, Division 5 of the LGA (Referral of suspected inappropriate conduct to local government) a referral from the Independent Assessor (IA) of suspected inappropriate conduct or an instance of suspected inappropriate conduct that may arise from circumstances under paragraph 1.9.2 of this document, requires that the local government must complete an investigation into the alleged conduct.

2.1. The investigation must be conducted in a way that is consistent with the local government's investigation policy including:

2.1.1. consistent with any recommendations from the IA, or

2.1.2. In another way decided by resolution of the council.

2.2. After the completion of the investigation, the council must decide in a council meeting, whether the councillor has engaged in inappropriate conduct. Unless in accordance with section 150AG of the LGA, it has delegated responsibility for this decision to the mayor under section 257(2)(a) or to a standing committee section 257(2)(b) of the LGA or for the Brisbane City Council section 238(2)(a),(b) or (c) of the COBA.

2.3. When dealing with an instance of suspected inappropriate conduct which has been referred to a council by the IA:

2.3.1. The council must 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. However, where the matter may directly affect the health and safety of the complainant due to the nature of the complaint, the council may resolve to go into closed session under section 254J(3)(f) of the LGR or section 242J(3)(f) of the COBR to discuss the allegation. No resolution for a decision can be made in the closed session.

2.3.2. The subject councillor has a declarable conflict of interest in the matter but may remain in the meeting (unless council decides otherwise), during the debate about whether the councillor engaged in the inappropriate conduct and answer questions put to the subject councillor through the chairperson to assist the other councillors in making a decision. The permission to remain in the meeting for the debate is on the condition that the subject councillor must leave the place where the meeting is being held,

including any area set aside for the public, during the vote on whether they have engaged in inappropriate conduct and what, if any, penalty to impose if the councillor is found to have engaged in inappropriate conduct.

- 2.3.3. If the complainant is a councillor, that councillor has a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures in section 4. If the complainant councillor who has a conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the other councillors must decide how to deal with the conflict of interest under section 4. The complainant councillor can be ordered to leave the meeting place or conditions may be applied to allow that councillor to participate in either the debate, the vote, or the decision on any disciplinary action to be applied.
- 2.4. The council must debate the issue and decide whether the subject councillor engaged in inappropriate conduct. If the council has lost quorum due to the number of conflicted councillors or another reason, the local government must do 1 of the following:
 - 2.4.1. Delegate deciding the matter under section 257 of the LGA to the mayor or a standing committee, or under section 238 of the COBA, to the mayor or the Establishment and Coordination Committee, or a standing committee, whichever is the most appropriate in the circumstances or
 - 2.4.2. Decide, by resolution, to defer the matter to a later meeting or
 - 2.4.3. Decide, by resolution, not to decide the matter and take no further action in relation to the matter.
 - 2.5. If a decision is reached that the subject councillor has engaged in inappropriate conduct, then the councillors must decide what penalty or penalties from the orders detailed in 2.6, if any, to impose on the councillor. In deciding what penalty to impose the council may consider any previous inappropriate conduct of the councillor and any allegation made in the investigation that was admitted, or not challenged, and that the council is reasonably satisfied is true.
 - 2.6. The council may order that no action be taken against the councillor or make one or more of the following:
 - 2.6.1. An order that the councillor make a public admission that the councillor has engaged in inappropriate conduct
 - 2.6.2. An order reprimanding the councillor for the conduct

- 2.6.3. An order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense
 - 2.6.4. An order that the councillor be excluded from a stated council meeting
 - 2.6.5. An order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor, (for example that the councillor is ordered to resign from an appointment representing the local government on a state board or committee)
 - 2.6.6. An order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
 - 2.6.7. An order that the councillor reimburse the council for all or some of the costs arising from the councillor's inappropriate conduct.
 - 2.6.8. A council may not make an order under 2.6.3; 2.6.4; 2.6.5; 2.6.6 in relation to a person who is no longer a councillor.
- 2.7. 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, and the chairperson must advise them of the decision made by council and if relevant any orders they have made.
- 2.8. The minutes of the meeting must reflect the decision made.

3. Prescribed Conflict of Interest

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a council meeting, standing or advisory committee meeting (other than ordinary business matters prescribed in section 150EF of the LGA or section 177C of the COBA. When dealing with a prescribed conflict of interest, councillors must abide by the following procedures,

- 3.1. A councillor who has notified the chief executive officer in writing of a prescribed conflict of interest in a matter to be discussed in a council meeting must also give notice during the meeting at the time when the matter is to be discussed.
- 3.2. A councillor who first becomes aware of a prescribed conflict of interest in a matter during a council meeting must immediately inform the meeting of the conflict of interest.
- 3.3. When notifying the meeting of a prescribed conflict of interest, the following particulars must, at a minimum, be provided:

- 3.3.1. If it arises because of a gift, loan or contract, the value of the gift, loan or contract
 - 3.3.2. If it arises because of an application for which a submission has been made, the matters the subject of the application and submission
 - 3.3.3. The name of any entity, other than the councillor, that has an interest in the matter
 - 3.3.4. The nature of the councillor's relationship with the entity mentioned in 3.3.3 that has an interest in a matter
 - 3.3.5. Details of the councillor's and any other entity's interest in the matter.
- 3.4. The councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject councillor has written notice of approval from the Minister to participate in the matter.
- 3.5. Once the councillor has left the area where the meeting is being conducted, the council can continue discussing and deciding on the matter at hand.

4. Declarable Conflict of Interest

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at council meetings and standing or advisory committee meetings that might lead to a decision that is contrary to the public interest (other than the interests prescribed under section 150EO of the LGA and section 177L of the COB, and ordinary business matters prescribed in section 150EF of the LGA and section 177C of the COBA).

- 4.1. A councillor may raise their personal interests in a matter at the meeting to canvas the view of the other councillors prior to deciding to declare a conflict of interest. If the other councillors suspect the personal interest might be a conflict of interest, the other councillors may disclose their suspicion and the processes under section 150EW of the LGA or section 177T of COBA applies.
- 4.2. When dealing with a declarable conflict of interest, a councillor must abide by the following procedures:
 - 4.2.1. A councillor who has notified the chief executive officer in writing of a declarable conflict of interest in a matter to be discussed at a council meeting must also give notice during the meeting at the time when the matter is to be discussed.
 - 4.2.2. A councillor who first becomes aware of a declarable conflict of interest in a matter during a council meeting must inform the meeting of the conflict of interest.

4.3. When notifying the meeting of a declarable conflict of interest, a councillor should provide sufficient detail to allow the other councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following minimum details must be provided:

4.3.1. The nature of the declarable conflict of interest

4.3.2. If it arises because of the councillor's relationship with a related party

- the name of the related party and
- the nature of the relationship of the related party to the councillor and
- the nature of the related party's interest in the matter.

4.3.3. if it arises because of a gift or loan from another person to the councillor or a related party:

- the name of the other person and
- the nature of the relationship of the other person to the councillor or related party and
- the nature of the other person's interest in the matter and
- the value of the gift or loan and the date the gift or loan was made.

4.4. After a councillor has declared a conflict of interest, the councillor should consider leaving the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.

4.4.1. If the councillor chooses not to leave the meeting, the councillor may advise the other councillors of their reasons for seeking permission to participate in making the decision.

4.4.2. The other eligible councillors at the meeting must then decide, by resolution, whether the councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether the councillor should not participate in the decision and leave the place of the meeting while the matter is decided by the eligible councillors. The eligible councillors may impose conditions on the councillor under a decision to either participate or leave the meeting e.g. may stay for the debate but must leave for the vote. The councillor must comply with any decision or condition imposed by the eligible councillors.

4.4.3. In deciding on whether a councillor may participate in a decision about a matter in which the councillor has a declarable conflict of interest, only councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible

to participate in the decision making. The decision may be made even if the number of those councillors is less than a majority or do not form a quorum for the meeting consistent with section 150ET of the LGA and section 177Q of COBA.

- 4.5. The councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the chairperson to assist the eligible councillors in making their decision. The subject councillor must not vote in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the chairperson, on whether the councillor may remain in the meeting and participate in deciding the matter in which the councillor has a declarable conflict of interest.
- 4.6. When deciding whether a councillor may participate in the decision making on a matter in which the councillor has a declarable conflict of interest, the eligible councillors should consider the circumstances of the matter including, but not limited to:
 - 4.6.1. How does the inclusion of the councillor in the deliberation affect the public trust
 - 4.6.2. How close or remote is the councillor's relationship to the related party
 - 4.6.3. If the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
 - 4.6.4. Will the benefit or detriment the subject councillor or their related party stands to receive from the decision have major or minor impact on them
 - 4.6.5. How does the benefit or detriment the subject councillor stands to receive compare to others in the community
 - 4.6.6. How does this compare with similar matters that council has decided and have other councillors with the same or similar interests decided to leave the meeting
 - 4.6.7. Whether the subject councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest?
- 4.7. If the eligible councillors cannot decide whether the subject councillor has a declarable conflict of interest, then they are taken to have decided that the councillor must leave and stay away from the meeting while the eligible councillors discuss and vote on the matter.
- 4.8. A decision about a councillor who has a declarable conflict of interest in a matter applies in relation to the councillor for participating in the decision, and subsequent decisions, about the same matter unless there is a change to the councillor's personal interests and/or the nature of

the matter being discussed. If the eligible councillors decide that the councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. workshops.

- 4.9. In making the decision about the councillor's conflict of interest in a matter, it is irrelevant how the subject councillor intended to vote on the issue or any other issue (if known or suspected).
- 4.10. A councillor does not contravene the above procedures if the councillor participates in a decision under written approval from the Minister as prescribed in section 150EV of the LGA or section 177S of the COBA.

5. Reporting a Suspected Conflict of Interest

- 5.1. If a councillor at a meeting reasonably believes or suspects that another councillor has a personal interest in a matter that may be a prescribed or declarable conflict of interest, and that councillor is participating in a decision on that matter, the councillor who believes or suspects this, must immediately inform the chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.
- 5.2. The chairperson should ask the relevant councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the councillor agrees they have a conflict of interest, the councillor must follow the relevant procedures above.
- 5.3. If the councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.
- 5.4. The eligible councillors must then decide whether the councillor has a prescribed conflict of interest, a declarable conflict of interest or that the councillor does not have a prescribed or declarable conflict of interest in the matter. If the meeting decides the councillor has a conflict of interest, the councillor must follow the relevant procedures above. If a councillor with a declarable conflict of interest wants to participate in the decision despite the declarable conflict of interest, then the eligible councillors must make a decision about the councillor's participation.
- 5.5. If the councillors cannot reach a decision about the conflict of interest, or the subject councillor's participation in the matter despite a declarable conflict of interest, then they are taken to have determined that the councillor must leave and stay away from the place where

the meeting is being held while the eligible councillors discuss and vote on the matter. This decision will continue to apply in relation to all subsequent decisions about the same matter, where the conflict of interest remains unchanged.

6. Loss of Quorum

6.1. In the event where one or more councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, all the councillors including the conflicted councillors must resolve to:

6.1.1. Delegate the consideration and decision on the matter, pursuant to section 257 of the LGA or section 238 of the COBA unless the matter cannot be delegated

6.1.2. Defer the matter to a later meeting

6.1.3. Not to decide the matter and take no further action in relation to the matter.

6.2. The council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.

6.3. The council must not delegate a power that an Act says must be decided by resolution of the council under section 257(3) of the LGA or section 238(3) of the COBA.

6.4. The council may by resolution delegate a power under section 257 of the LGA or section 238 of the COBA to:

6.4.1. The mayor or chief executive officer, or

6.4.2. A standing committee, or joint committee of council, or

6.4.3. The chairperson of a standing committee or joint standing committee of council – does not apply to Brisbane City Council, or

6.4.4. Another local government for a joint government activity.

6.4.5. The Establishment and Coordination Committee – only applies to Brisbane City Council

6.5. The council may only delegate a power to make a decision about a councillors conduct under section 150AG of the LGA pursuant to section 257(2) of the LGA, to:

6.5.1. The mayor or

6.5.2. A standing committee.

6.6. A council may only delegate a power to make a decision about a councillor's conduct pursuant to section 238(2) of the COBA, to:

6.6.1. The mayor, or

6.6.2. The Establishment and Coordination Committee, or

6.6.3. A standing committee of the council.

6.7. The Minister for Local Government may, by signed notice give approval for a conflicted councillor to participate in deciding a matter in a meeting including being present for the discussion and vote on the matter, if there is a loss of quorum and deciding the matter cannot be delegated, subject to any conditions the Minister may impose.

7. Recording Prescribed and Declarable Conflicts of Interest

7.1. When a councillor informs a meeting that they or another councillor have a prescribed or declarable conflict of interest in a matter, the minutes of the meeting must record all the relevant details of how the conflict of interest was dealt with, being (see section 150FA of the LGA or section 177X of the COBA):

7.1.1. The name of any councillor and any other councillor who may have a prescribed or declarable conflict of interest

7.1.2. The particulars of the prescribed or declarable conflict of interest provided by the councillor

7.1.3. The actions taken by a councillor after informing the meeting that they have, or they reasonably suspect another councillor has a prescribed or declarable conflict of interest

7.1.4. Any decision then made by the eligible councillors

7.1.5. Whether the councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval

7.1.6. The council's decision on what actions the councillor with a declarable conflict of interest must take and the reasons for the decision

7.1.7. The name of each eligible councillor who voted on the matter and how each voted.

7.2. If the councillor has a declarable conflict of interest the following additional information must be recorded in the minutes of the meeting when the meeting is informed of a councillor's personal interest by someone other than the councillor:

7.2.1. The name of each councillor who voted in relation to whether the councillor has a declarable conflict of interest, and how each of the councillors voted.

7.3. Where a decision has been made under section 4 above – the minutes must include:

7.3.1. The decision and reasons for the decision, and

7.3.2. The name of each eligible councillor who voted, and how each eligible councillor voted.

8. Closed Meetings

8.1. A local government council meeting, standing committee meeting and advisory committee meeting may resolve that a meeting be closed to the public if its councillors and members consider it necessary to discuss any of the following matters pursuant to section 254J(3) of the LGR or section s242J(3) of the COBR:

8.1.1. Appointment, dismissal or discipline of the CEO or, in the case of Brisbane City Council only, also for senior executive employees

8.1.2. Industrial matters affecting employees

8.1.3. The local government's budget, which does not include the monthly financial statements

8.1.4. Rating concessions

8.1.5. Legal advice obtained by the local government or legal proceedings involving the local government, including for example, legal proceedings that may be taken by or against the local government

8.1.6. Matters that may directly affect the health and safety of an individual or a group of individuals

8.1.7. Negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of the local government

8.1.8. Negotiations relating to the taking of land by the council under the *Acquisition of Land Act 1967*

8.1.9. A matter that the local government is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or State.

8.2. A council meeting, standing and advisory committee meetings cannot resolve that a meeting be closed where the meeting is informed of a councillor's personal interest in the matter by

another person and the eligible councillors at the meeting must decide by resolution whether the councillor has a prescribed or declarable conflict of interest in the matter.

8.3. Further, the meeting must not be closed if a quorum is lost due to the number of conflicted councillors who leave the council meeting and the council must resolve to:

8.3.1. Delegate the consideration and decision on the matter, pursuant to section 257 of the LGA or section 238 of the COBA unless the matter cannot be delegated:

8.3.2. Defer the matter to a later meeting when a quorum may be available

8.3.3. Not to decide the matter and take no further action in relation to the matter.

8.4. None of the above will be considered, discussed, voted on or made during a closed session.

8.5. 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 while in the closed meeting (a failure to do so could be a contravention of section 171(3) of the LGA or section 173(3) of the COBA).

8.6. To take a matter into a closed session the council must abide by the following:

8.6.1. Pass a resolution to close all or part of the meeting

8.6.2. The resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered (see section 8.1)

8.6.3. If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to take the issue into closed session must be stated

8.6.4. Not make a resolution while in a closed meeting (other than a procedural resolution).