COUNCIL POLICY 4.10

Meeting Procedures

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Conduct of local government meetings and its committee meetings

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Acknowledgement of Country

The Department of Local Government, Water and Volunteers respectfully acknowledges the Traditional Custodians of Country. We recognise the ongoing spiritual and cultural connection Aboriginal Peoples and Torres Strait Islander Peoples have with land, water, sea and sky. We pay our deep respects to their Elders past and present, support future leaders and acknowledge First Nations People's right to self-determination.

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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), *City of Brisbane Act 2010* (COBA) and City of Brisbane Regulation 2012 (COBR). However, model meeting procedures do not apply to meetings of a local government's audit committee.

It is not intended that the model meeting procedures deal with all aspects of meeting conduct but only those required to strengthen public confidence in local government.

Principles Applied to Meetings

Local government meetings must adhere to the following local government principles:

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

Background

Under section 150F of the LGA, the chief executive of the department of local government (the Department) must make model procedures for local government and committee meetings. These procedures must be adopted and if the local government adopts other procedures, they must be consistent with the model meeting procedures.

The model meeting procedures include the following:

- the procedure for the mayor as chairperson, to lead and manage local government meetings including any committee meetings for which the mayor is appointed as chairperson, except Brisbane City Council who have an elected chair of council who presides over their meetings.
- the procedure for how the chairperson of a local government meeting may deal with unsuitable meeting conduct by a councillor, including contravening an order to leave the meeting.
- the procedure for how the councillors at a local government meeting may deal with unsuitable meeting conduct by the chairperson
- the procedure for managing a material personal interest during a local government meeting and recording the details of the material personal interest, as provided by the councillor, in the meeting minutes.
- the procedure for managing a conflict of interest (real or perceived) arising during a local government meeting and recording details of the conflict of interest as provided by the councillor in the meeting minutes.
- the procedure for dealing with a loss of quorum.
- procedures for closing local government meetings to the public.

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 incorporate the model meeting procedures which local governments can choose to adopt. These are published on the Department's 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 these model meeting procedures.

Procedures

1. Procedures for the Chairperson

This clause applies to ordinary and special local government meetings, and local government committee meetings under the LGA. This section does not apply to Brisbane City Council where the Chair of Council, elected by councillors, presides over each Brisbane City Council meeting.

Under section 12(4) of the LGA the mayor has extra responsibilities in addition to those which all councillors have, this includes being the chairperson of council meetings, and any committee meetings for which the mayor is appointed as chairperson. This involves leading and managing local government meetings, including managing the conduct of participants at the meeting. The mayor may delegate another councillor to perform the mayor's extra responsibilities including acting as chairperson.

1.1. The mayor is the chairperson at all local government meeting and any committee meeting for which the mayor is appointed as the chairperson, including managing the conduct of the meeting participants, provided the mayor is present at the meeting.

1.2. If the mayor is absent or unavailable to chair a meeting, the meeting will be chaired by the councillor to whom the mayor has delegated their responsibility.

1.3. If the mayor is absent or unavailable to chair a meeting, and has not delegated another councillor to do so, the deputy mayor will be the chairperson.

1.4. If the office of mayor becomes vacant the deputy mayor acts as mayor and chairperson of the local government meetings

1.5. If the mayor and the deputy mayor are both absent or unavailable to chair a meeting, and no other councillor has been delegated the responsibility to act as chairperson, the local government may by resolution appoint one of the councillors present at the meeting to act as chairperson for the duration of the meeting.

1.6. If the chairperson of a committee is absent or unavailable to chair a meeting, another councillor who is chosen by the councillors present, will be chairperson of the committee meeting for the duration of the meeting.

Note: *Section 12 of the LGA prescribes that other councillors cannot assume the chairperson role. The provision for the mayor to delegate the responsibility to be chairperson to another councillor caters for the possibility that the mayor will not be the chairperson of some or all of a particular local government meeting because the mayor has, for example, a conflict of interest or a material personal interest in a matter requiring them to leave the meeting, or will be absent or unavailable for that meeting.*

2. Procedure 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 local government meeting and contravenes a behavioural standard of the **Code of Conduct for Councillors** in Queensland. When dealing with an instance of unsuitable meeting conduct by a councillor, the following procedures must be followed:

2.1. The chairperson must reasonably believe that the conduct of a councillor during a meeting is unsuitable meeting conduct.

2.2. If the chairperson decides the unsuitable meeting conduct has occurred, the chairperson may consider the seriousness of the conduct and whether the councillor has had any previous warnings for unsuitable meeting conduct issued.

2.3. 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 2.8 below.

2.4. 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:

2.4.1. Ceasing and refraining from exhibiting unsuitable meeting conduct

2.4.2. Apologising for their conduct

2.4.3. Withdrawing their comments.

2.5. If the councillor complies with the chairperson's request for remedial action, the Chairperson may take no further action.

2.6. 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.

2.7. If the councillor complies with the chairperson's warning and request for remedial action, no further action is required.

2.8. If the councillor fails to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 2.6, the chairperson may make one or more of the orders below:

2.8.1. An order reprimanding the councillor for the conduct

2.8.2. 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.

2.9. 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

2.10. Any councillor aggrieved with an order issued by the chairperson can move a motion of dissent.

***Note**: Contravention of an order to leave the meeting is misconduct and a notice must be given to the Independent Assessor (the Assessor) by a local government official (councillor/mayor or chief executive officer) providing all the information about the matter for a preliminary assessment to be undertaken. This may attract disciplinary action under 150L(1)(c)(v) of the LGA. Following the completion of the meeting the chairperson must ensure the minutes of the meeting record the information about the unsuitable meeting conduct and be recorded in the councillor conduct register with any order made against the councillor including the name of the councillor.*

3. Procedure for Dealing with Unsuitable Meeting Conduct by a Chairperson in a Meeting

The conduct of the chairperson is unsuitable meeting conduct if the conduct happens during a local government meeting and contravenes a behavioural standard of the Code of Conduct for Councillors in Queensland.

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

3.1. If a councillor at the meeting reasonably believes that the conduct of the chairperson during the meeting is unsuitable meeting conduct, the councillor may raise the matter in the meeting by point of order.

3.2. The chairperson may take remedial action such as:

3.2.1. ceasing and refraining from exhibiting unsuitable meeting conduct, or

3.2.2. apologising for their conduct, or

3.2.3. withdrawing their comments.

3.3. If the chairperson does not take remedial action, the councillor may move a procedural motion that the chairperson has engaged in unsuitable meeting conduct (a seconder for the motion is not required).

3.4. The councillors present at the meeting, excluding the chairperson, must decide by voting on the resolution if the conduct is unsuitable meeting conduct.

3.5. The chairperson may remain at the meeting as chairperson but must not vote on the motion as prescribed in section 150IA the LGA. If the votes are equal, the motion is resolved in the negative.

3.6. If it is decided that the chairperson has engaged in unsuitable meeting conduct the councillors will make an order reprimanding the chairperson for the unsuitable meeting conduct.

3.7. Following an order being made the chairperson returns to the business in the agenda and the meeting continues.

***Note**: Details of any reprimand order is recorded in the minutes of the meeting. The local government's chief executive officer is responsible to ensure details of any order made is updated in the local government's councillor conduct register including the name of the chairperson engaging in unsuitable meeting conduct.*

4. Procedure for Managing Material Personal Interest

Councillors are ultimately responsible for managing and declaring any material personal interest in matters to be discussed at a local government meeting, standing or advisory committee meeting.

A councillor or their associate has a material personal interest if they stand to gain a benefit or suffer a loss, either directly or indirectly depending on the outcome of a consideration of a matter at a meeting. Section 150ED of the LGA and 177A of the COBA outline several exceptions in relation to which personal interests of councillors do not apply.

4.1. If a councillor has a material personal interest in a matter to be discussed at a meeting the councillor must:

4.1.1. inform the meeting of the details of the material personal interest.

4.1.2. leave the place where the meeting is being held, including any area set aside for the public to view the meeting, and stay away from the place while the matter is discussed and voted on

4.2. A councillor who has a material personal interest in a matter may ask the chairperson to defer the matter to allow the councillor the opportunity to apply for ministerial approval to participate in deciding the matter.

4.3. In these circumstances, the matter may be deferred by resolution to a later meeting date.

4.4. The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by Regulation:

4.4.1. the name of the councillor who has the material personal interest in a matter

4.4.2. the nature of the material personal interest, as described by the councillor

4.4.3. whether the councillor took part in the meeting, or was at the place during the meeting, under ministerial approval.

Note: *Contravention of the requirements at 4.1 is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iii) LGA. In addition, contravention of these requirements, including voting on a matter, with an intention to gain a benefit or avoid a loss for the councillor or someone else is an offence attracting a maximum penalty of 200 penalty units or 2 years imprisonment.*

If a councillor becomes aware that another councillor is engaging in possible misconduct e.g. has a material personal interest in a matter and is participating in a decision at a meeting about that matter, the councillor or chief executive officer, must notify the Assessor of the information about the councillor's conduct. —see section 150R LGA.

5. Procedure for Managing Conflict of Interest

Councillors are ultimately responsible for informing of any conflict of interest (real or perceived), on matters to be discussed at local government meetings and standing or advisory committee meetings.

A councillor has a conflict of interest (real or perceived) where a councillor or their related party's interests might lead to a decision that is contrary to the public interest (other than the interests prescribed under section 150ED and section 150EF(2) of the LGA and section 177A and 177C(2) of the COBA).

5.1 If a councillor has a conflict of interest (real or perceived) in a matter to be discussed at a meeting, the councillor must deal with the conflict of interest in a transparent and accountable way. The councillor must:

5.1.1 inform the meeting of the councillor's personal interests in the matter, and

5.1.2 if the councillor participates in the meeting in relation to the matter, advise how the councillor intends to deal with the real or perceived conflict.

5.2 If a quorum at the meeting cannot be formed because the councillor proposes to exclude themselves from the meeting to manage their conflict of interest, the councillor does not contravene these provisions merely by participating and voting in the meeting in relation to the matter.

5.3 If a councillor has a conflict of interest in a matter, and proposes to exclude themself from the meeting, the chairperson may ask the councillor if the councillor has considered another way to manage their conflict of interest.

5.4 If the councillor who was proposing to be excluded from the meeting is reconsidering their decision on whether to remain in the meeting, the councillor may consider the following in determining how they will manage the conflict of interest:

5.4.1 how their participation in the meeting may affect the public trust?

5.4.2 how close is their relationship to the related party if the conflict arises because of a related party?

5.4.3 how will the benefit or loss, the councillor or the related party stand to receive from the decision compare to that of others in the community?

5.4.4 does the councillor have skills, knowledge or expertise that might help make the best decision in the public interest?

5.5 If the councillor decides to participate in the discussion, the councillor must comply with 5.1 by informing the meeting of their personal interests and the steps they will take in managing the conflict of interest in the public interest.

5.6 The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by Regulation:

5.6.1 the name of the councillor who has the real or perceived conflict of interest in a matter

5.6.2 the nature of personal interests as described by the councillor

5.6.3 how the councillor dealt with the real or perceived conflict of interest

5.6.4 if the councillor voted on the matter, how the councillor voted

5.6.5 how the majority of councillors at the meeting voted on the matter.

Note: *Non-participation in a meeting is not the only way to appropriately deal with a real or perceived conflict of interest in a transparent and accountable way.*

Contravention of this section is misconduct that could result in disciplinary action being taken against a councillor, see section 150L(1)(c)(iii) of the LGA and section 150L(1)(c)(iv) of the COBA.

If a councillor becomes aware of information that another councillor has a conflict of interest in a matter and that councillor is participating in a decision at a meeting on the matter, the councillor or the chief executive officer must notify the Assessor of the information about the councillor's conduct—see section 150R LGA.

6. Procedure for loss of Quorum

6.1. In the event where one or more councillors leave a meeting that results in a loss of a quorum for deciding the matter, councillors may resolve to deal with the matter in the following ways:

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 when a quorum can be formed

6.1.3. not to decide the matter and take no further action in relation to the matter unless the LGA or another Act provides that the local government must decide the matter.

6.2. The local government may by resolution delegate a power to:

6.2.1. the mayor or chief executive officer, or

6.2.2. a standing committee, or joint committee of the local government, or

6.2.3. the chairperson of a standing committee or joint standing committee of the local government or the Establishment and Coordination Committee of the Brisbane City Council

6.2.4. another local government for a joint government activity.

7. Procedures for Closed Meetings

7.1. A local government meeting, standing committee meeting and advisory committee meeting may resolve that all, or part, of a meeting be closed to the public if it considers it necessary to discuss any of the following matters pursuant to section 254J(3) of the LGR or section s242J(3) of the COBR:

7.1.1. Appointment, dismissal, or discipline of the CEO or, in the case of Brisbane City Council only, also for senior executive employees and the appointment of a senior contract employee

7.1.2. Industrial matters affecting employees

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

7.1.4. Rating concessions

7.1.5. 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

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

7.1.7. 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

7.1.8. Negotiations relating to the taking of land by the local government under the *Acquisition of Land Act 1967*

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

7.2. A resolution to close the meeting to the public cannot be made if a quorum is lost.

7.3. If a closed session includes attendance by audio or audio visual link, the councillor/s attending 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).

7.4. To take a matter into a closed session the local government must abide by the following:

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

7.4.2. 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

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

7.4.4. Provide Brisbane City Council's Establishment and Coordination Committee (Civic Cabinet) with confidentiality provisions to promote sound deliberative and decision-making processes.