

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
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Applicable Legislation:	Local Government Act 1999; [the Act] Local Government (Procedures at Meetings) Regulations 2013 [the Regulations].
Related Policies:	Nil
Related Procedures:	Nil
Related Documents	LGASA Council Meeting Procedures Handbook May 2015

INDEX

Clause	Title	Page
1	Introduction	1
2	Commencement of Meetings and Quorums	4
3	Minutes	5
4	Questions by Members	5
5	Petitions	6
6	Deputations	6
7	Motions	6
8	Amendments to Motions	7
9	Variation/Alteration/Withdrawal of Motion	7
10	Addresses by Members	8
11	Voting	8
12	Divisions	8
13	Tabling of Information	8
14	Adjourned Business	9
15	Short-term Suspension of Proceedings	9
16	Chief Executive Officer may submit report recommending revocation or amendment of Council decision	9
17	Availability of this Code of Practice	9

1. INTRODUCTION

Clause 4 – Local Government (Procedures at Meetings) Regulations 2013: Guiding Principles

The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a council or a council committee:

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

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

2. PUBLIC HEALTH EMERGENCY: Electronic Participation in Council Meetings

On 15 March 2002, 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 informal Gatherings Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this informal Gatherings Policy to the contrary.

For the avoidance of doubt, save for the alterations to the informal Gatherings Policy as set out below, this informal Gatherings Policy otherwise applies to all informal gatherings of the Council

Alteration to this Code of Practice to Facilitate Electronic Participation

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 provisions 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 directions to a member in respect of the member 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 direction to a member by resolution.

	<h2>Code of Practice Meeting Procedures</h2>		Version No:	4.0
			Issued:	17 April 2007
			Last Review:	14 April 2020
			Next Review:	January 2021

Definitions

Act: means the Local Government Act 1999.

Electronic: means includes a telephone, computer or other electronic device used for communication

Regulations: means the Local Government (Procedures at Meetings) Regulations 2013

Disconnection of 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.

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 at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

Quorum

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.

A division may be called in relation to the vote

Adjourned Meetings

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 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.

	<h2 style="margin: 0;">Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

Clause 6 – Local Government (Procedures at Meetings) Regulations 2013: Discretionary procedures

- 1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this regulation, then a council may, by a resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, determine that a code of practice prepared or adopted by the council that establishes its own procedures for the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).
- 2) A council should, at least once in every financial year, review the operation of a code of practice under this regulation.
- 3) A council may at any time, by resolution supported by at least two-third of the members of the council entitled to vote on the resolution, alter a code of practice, or substitute or revoke a code of practice.
- 4) A council must, in considering the exercise of a power under this regulation, take into account the Guiding Principles.
- 5) A person is entitled to inspect (without charge) the code of practice of a council under this regulation at the principal office of the council during ordinary office hours.
- 6) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.
- 7) Regulation 12(4) does not apply to a motion under subregulation (3).
- 8) This regulation does not limit or derogate from the operation of regulation 20*.

Note: *Furthermore, if a matter is not dealt with by the Act or these regulations (including under a code of practice under this regulation), then the relevant procedure will be –

- (a) as determined by the council; or
- (b) in the case of a council committee where a determination has not been made by the council – as determined by the committee.

(See sections 86(8) and 89(1) of the Act.)

2. COMMENCEMENT OF MEETINGS AND QUORUMS

Clause 7 – Local Government (Procedures at Meetings) Regulations 2013

- 1) A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- 2) If the number of apologies received by the Chief Executive Officer (CEO) 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.
- 3) If at the expiration of thirty (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.
- 4) If a meeting is adjourned for want of a quorum, the CEO will record in the minute book the reason for the adjournment, the names of any members present, the date & time to which the meeting is adjourned.
- 5) 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.

The prescribed number of members of Council required to form a quorum shall be ascertained by dividing the total number of members of Council for the time being in office by two (2), ignoring any fraction resulting from the division, and adding one.

If a quorum of a meeting cannot be formed because a member of council proposes to exclude himself or herself from the meeting in order to comply with subsection (1) of the Local Government Act 1999 (a conflict of interest), the member will not be taken to have contravened subsection (1) by participating in the meeting (including voting) in relation to the matter being considered if the attendance of the member, together with any other required number of members, forms a quorum for the meeting.

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

3. MINUTES

Clause 8 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- 2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- 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.
- 4) The minutes of the proceedings of a meeting must include:
 - a) the name 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.

4. QUESTIONS BY MEMBERS

Clause 9 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- 2) If notice of a question is given under sub regulation (1):
 - a) the Chief Executive Officer must ensure that the question 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.
- 3) A member may ask a question without notice at a meeting.
- 4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
- 5) 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.
- 6) 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.

	<h2 style="margin: 0;">Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

5. PETITIONS

Clause 10 – Local Government (Procedures at Meetings) Regulations 2013

- 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; and
 - d) be addressed to the council and delivered to the principal office of the council.
- 2) If a petition is received under sub regulation (1), the Chief Executive Officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures (or the number of persons endorsing the petition), is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.
- 3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 6.

6. DEPUTATIONS

Clause 11 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- 2) The Chief Executive Officer must transmit a request received under sub regulation (1) to the presiding member.
- 3) The presiding member may refuse to allow the deputation to appear at a meeting.
- 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.
- 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 or council committee (as the case may be).
- 6) The council or the council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- 7) A council may refer the hearing of a deputation to a council committee.

7. MOTIONS

Clause 12 – Local Government (Procedures at Meetings) Regulations 2013

- 1) A member may bring forward any business in the form of a written notice of motion.
- 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.
- 3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.
- 4) If a motion under sub regulation (3) is lost, a motion to the same effect cannot be brought:
 - a) until after the expiry of 12 months; or
 - b) until after the next general election, whichever is the sooner
- 5) Subject to the Act and the Regulations, a member may also bring forward any business by way of a motion without notice.
- 6) 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) 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 or council committee (as the case may be).
- 8) A motion will lapse if it is not seconded at the appropriate time.
- 9) A member moving or seconding a motion may speak to the motion at the time of moving or seconding the motion.

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

- 12) A member who has not spoken in the debate on a question may move a formal motion.
- 13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).
- 14) If the formal motion is:
- 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
 - 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
 - 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 & the question can then only be retrieved at a later time by resolution (& if so retrieved, debate is then resumed at the point of interruption); or
 - 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 a later time (at the point of interruption); or
 - 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.
- 15) 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 of the resumption).
- 16) A formal motion does not constitute an amendment to a substantive motion.
- 17) If a formal motion is lost:
- the meeting will be resumed at the point at which it was interrupted; and
 - 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.
- 18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- 19) Any question that lies on the table or as a result of a successful formal motion under subregulation (14) (C) lapses at the next general election.
- 20) The CEO must report on each question that lapses under sub regulation (19) to the Council at the first ordinary meeting of the Council after a general election.
- 21) Subregulations (9), (10) and (11) may be varied at the discretion of the council pursuant to regulation 6.
(*In accordance with subregulation (21), subregulations (10) and (11) are not applicable to this Code of Practice*).

8. AMENDMENTS TO MOTIONS

Clause 13 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- An amendment will lapse if it is not seconded at the appropriate time.
- Subregulations (1), (3), (4) and (5) may be varied at the discretion of the council pursuant to regulation 6.
(*In accordance with subregulation (6), subregulations (3) (4) and (5) are not applicable to this Code of Practice*).

9. VARIATIONS/ALTERATIONS/WITHDRAWALS

Clause 14 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

10. ADDRESSES BY MEMBERS

Clause 15 – Local Government (Procedures at Meetings) Regulations 2013

- 1) A member must not speak for longer than five minutes at any one time without leave of the meeting.
- 2) A member may, with the leave of the meeting, raise a matter of urgency.
- 3) A member may, with leave of the meeting, make a personal explanation.
- 4) The subject matter of a personal explanation may not be debated.
- 5) The contribution of a member must be relevant to the subject matter of the debate.
- 6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 6.

11. VOTING

Clause 16 – Local Government (Procedures at Meetings) Regulations 2013

- 1) The presiding member, or any other member, may ask the Chief Executive Officer to read out a motion before a vote is taken.
- 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.
- 4) Subregulation 3 –
 - a) May be varied at the discretion of the council pursuant to regulation 6; and
 - b) Does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act.

(In accordance with subregulation (4), subregulation (3) is not applicable to this Code of Practice).

12. DIVISIONS

Clause 17 – Local Government (Procedures at Meetings) Regulations 2013

- 1) A division will be taken at the request of a member.
- 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.
- 3) Subsection (3) is not applicable to this Council
- 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).
- 5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6.

(In accordance with subregulation (4), subregulation (3) is not applicable to this Code of Practice).

13. TABLING OF INFORMATION

Clause 18 – Local Government (Procedures at Meetings) Regulations 2013

- 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).
- 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.

	<h2>Code of Practice Meeting Procedures</h2>	Version No:	4.0
		Issued:	17 April 2007
		Last Review:	14 April 2020
		Next Review:	January 2021

14. ADJOURNED BUSINESS

Clause 19 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- 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.
- 4) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.
(In accordance with subregulation (4), subregulation (3) is not applicable to this Code of Practice).

15. SHORT TERM SUSPENSION OF PROCEEDINGS

Clause 20 – Local Government (Procedures at Meetings) Regulations 2013

- 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 operations of this Division (or any part of this Division) for a period determined by the presiding member.
- 2) The Guiding Principles must be taken into account when considering whether to act under subregulation (1).
- 3) If a suspension occurs under subregulation (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 (see particularly Part 4 of Chapter 5, and Chapter 6 of the Act); 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 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

Clause 21 – Local Government (Procedures at Meetings) Regulations 2013

- 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.
- 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.
- 3) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

17. AVAILABILITY OF CODE OF PRACTICE

This Code of Practice will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.wudinna.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.