



**STATUTORY
CODE OF PRACTICE**

***Access to Council & Committee Meetings &
Associated Documents***

Approved by: *Council, 10 November 2008*

Subsequent Amendments:

Next Review Date: November 2011

Document Owner

Position: *Manager, Corporate Governance*

Phone: *8203 7131*

ACC2007/111526

1. INTRODUCTION

- 1.1 The Adelaide City Council (“ACC” or “the Council”) supports the objectives of the *Local Government Act 1999* (“the Act”) and the principles of honest, open and accountable government and encourages community participation in the business of the Council.
- 1.2 The Council is committed to the principle that the procedures to be observed at meetings of Council and Council Committees contribute to open, transparent and informed decision making and encourage appropriate participation in the business of Council. In managing the assets of the Council, Council recognises, however, there are some occasions where it may be necessary, in the broader community interest, to restrict public access to discussions and documents. Due diligence and professional consideration is applied to ensure that this principle is complied with.
- 1.3 The majority of reports that Adelaide City Council will seek to consider in confidence relate to business matters where the Council competes in the private marketplace, including strategic property matters and performance monitoring of business matters. Adelaide City Council is considerably more active in the commercial business environment, compared to other local councils.
- 1.4 The ACC applies the following Guiding Principles to the procedures to be observed at a meeting of a council or a council committee—
- (a) procedures should be fair and contribute to open, transparent and informed decision-making;
 - (b) procedures should encourage appropriate community participation in the affairs of the council;
 - (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
 - (d) procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting

2. PURPOSE

- 2.1 This code sets out the commitment of the Adelaide City Council to provide public access to Council and Council Committee meetings and associated documents.
- 2.2 This code outlines why and how the Adelaide City Council will use the provisions of the Act in meetings of Council or Committee to restrict public access.

3. LEGISLATIVE REQUIREMENTS

- 3.1 Chapter 6 of the Act sets out the arrangements for meetings of Council and Council Committees. Part 5 of Chapter 6 of the Act requires Council to have a Code of Practice relating to Access to Meetings and Documents.

- 3.2 Part 3 of Chapter 6 of the Act specifically requires that all Council and Council Committee meetings be held in public except where special circumstances exist as prescribed by the Act. The Council or Council Committee after applying a due diligence test must through decision order that the public be excluded.
- 3.4 Part 3 of Chapter 6 of the Act prescribes the special circumstances a council or council committee must identify to order that the public be excluded from attendance at a meeting to receive, discuss or consider in confidence any information or matter.
- 3.5 Part 4 of Chapter 6 of the Act identifies that a discussion or document relating to information or matter considered in a Council or Council Committee meeting in confidence may be kept confidential. In making an order to retain in confidence the Council or Council Committee must determine the duration for which the matter will remain confidential and not available for public inspection, when it will be reviewed and how it may be reviewed and revoked.
- 3.6 Part 7 of Chapter 6 of the Act identifies that the Ombudsman may audit or investigate the use of the provisions contained in Part 3 or Part 4 of Chapter 6 of the Act.
- 3.7 Part 7 of Chapter 6 of the Act contains a direction that an up-to-date schedule of the dates, times and places set for meetings of the council and council committees must be available on the internet.
- 3.8 Section 12 of the Freedom of Information Act 1991, identifies that a person has a legally enforceable right to apply for access to an agency's documents in accordance with the Act. This includes documents that have been considered in confidence and have an order that they remain confidential and not available for public inspection.

Full legislative provisions are available at **Appendix 1**.

4. DEFINITIONS

- 4.1 An **Employee** means, any person who is in either full time or part time employment in any department or location of the Council and includes casual staff, temporary staff, contract staff, temporary labour and consultants working for the Council, including the Chief Executive Officer.
- 4.2 **Agenda** means a list of items of business to be considered at a meeting.
- 4.3 **Council committee** means a committee of a council established under this Act and includes a subcommittee;
- 4.4 **Clear days**—
In the calculation of **clear days** in relation to the giving of notice before a meeting—
(a) the day on which the notice is given, and the day on which the meeting occurs, will not be taken into account; and

(b) Saturdays, Sundays and public holidays will be taken into account.

4.5 **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.

5. PUBLIC ACCESS TO AGENDAS (WITH REPORTS)

5.1 The community can gain information about the decision making governance of Council through the business matters listed on an Agenda for Council and Council Committee meetings and the reports related to those matters, with the exception of any matters listed on an Agenda by the Chief Executive Officer seeking consideration in confidence (S83(5) of the Act)

5.2 Agendas for Council and Council Committee meetings will be made available to the public at least three (3) clear days before the meeting, unless it is a Special Meeting of Council or a Council Committee.

5.3 Agenda for Special Meetings of Council or a Council Committee are made available no less than 2 hours after the time that the Agenda for a Special meeting is given to members of the council.

5.4 Agendas for Council and Council Committee meetings are made available:

- On the Council's internet site www.adelaidecitycouncil.com;
- At the Customer Centre free of charge; and
- The meeting venue at the time of a Council or Council Committee meeting free of charge.

6. ACCESS TO MEETINGS

6.1 Meeting schedules, identifying time and place, for Council and Council Committee are made available on the Council's internet site www.adelaidecitycouncil.com and on display in hard copy at the Customer Centre.

6.2 To support ease of access to meetings, all meetings are generally held in designated meeting rooms within the Adelaide Town Hall, King William Street, Adelaide.

Whenever a Council or Council Committee meeting is being held signage and security staff in the Adelaide Town Hall will provide directional guidance.

Ordinary Meetings of the Adelaide City Council are held in the Council Chamber.

Ordinary Meetings of a Council Committee are held in the Colonel Light Room.

Special meetings of the Council or a Council Committee are generally held in the Colonel Light Room.

6.3 As at September 2008 only one Council Committee meets outside of the Town Hall. In supporting the nature and purpose of the Adelaide Central Market Committee, this Council Committee meets at the Adelaide Central Market Management Office, Adelaide Central Market (Gouger Street side). The Adelaide

Central Market Management Office is accessible from the Gouger Street entrance to the Market, between Samtass Seafoods and Marino Meats, and is located on Level 1.

- 6.4 The Public Notice section of the City Messenger is utilised to publicise scheduled meetings on a weekly basis.
- 6.5 Public access to Council and Council Committee meetings is guaranteed. However the meeting may determine to exclude the public to consider a matter in confidence.
- 6.6 With the exception of the ability to address a meeting as a Deputation or during the Public Forum, public participation in a meeting consists of observing proceedings from the public gallery section of a meeting room in manner that does not hinder or obstruct the conduct and proceedings of the meeting.
- 6.7 The Public Forum is an initiative of the Adelaide City Council, enabling individuals to comment on matters that are not the subject of deliberation at the meeting of the Council, in addition to:
- the Legislative provisions for a member of the public to address a meeting of the Council or a Council Committee by way of a Deputation.
- And the opportunity that each individual has in
- providing comment or feedback to the Customer Centre in person;
 - providing comment or feedback by e-mail or via the internet;
 - providing comment or feedback in person, by e-mail or correspondence to the Lord Mayor and or Councillors.
- A Public Forum provides an opportunity for the Lord Mayor & Councillors of the Adelaide City Council to hear members of the public, in a formal setting, in relation to issues in which the Council has a direct interest or responsibility.
- 6.8 The public will only be excluded when considered absolutely necessary and the need of confidentiality outweighs the principles of open decision making.
- 6.9 Section 90(8) of the Local Government Act 1999 recognises the need to have informal gatherings to support Council Members in their decision making role. This section of the Act enables Council to hold informal gatherings to discuss issues as long as they do not make a decision or effectively pre-empt a decision on a matter that would ordinarily be dealt with at a Council or Committee meeting. These provisions enable Council to conduct workshops, induction sessions, receive presentations and be briefed on complex issues. Informal gatherings are not bound by the legislative provisions relevant to Council or Committee meetings.

- 6.10 All Adelaide City Council briefings (held under the auspices of Section 90(8) of the Local Government Act 1999) and including but not limited to planning sessions, briefing sessions, training sessions and workshops will, subject to the limitations set out below, be conducted in a place open to the public, open briefings normally be held on either Tuesday or Thursday in any week. The circumstances when such briefings will be held in private (i.e. not in a place or a manner open to the public) are:
- * where the CEO, in notifying members of the briefing, advises that the subject matter of the briefing is such that it will occur as a private briefing, or
 - * where, during the course of a briefing, the CEO recommends to the members present that it is appropriate to move into a private briefing session and the members, by consensus, support that recommendation, or
 - * where, during the course of a briefing, the members present, by consensus, agree to move into a private briefing session, or
 - * where the Council, in recognising the holding of a particular briefing resolves that it occur in the absence of the public.

7. PROCESS TO EXCLUDE THE PUBLIC TO CONSIDER A MATTER IN CONFIDENCE

- 7.1 If, in the opinion of the Chief Executive Officer, a matter requires consideration in confidence, the matter will be listed on the Agenda citing the special circumstance prescribed in the Act. The Agenda will also list a report and attach the report that will seek the exclusion of the public.
- 7.2 Before a meeting orders that the public be excluded from attendance at a meeting to receive, discuss or consider in confidence, the meeting will formally consider the report seeking the exclusion of the public and determine if this is necessary and, if so, pass an appropriate resolution to exclude the public.
- 7.3 The Adelaide City Council applies the principle within the Act that possible embarrassment or loss of confidence in the Council or a Committee is irrelevant when considering whether or not to exclude the public from a meeting.
- 7.4 Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required, an order which includes the grounds for confidentiality and the duration of the order or circumstances in which the order will cease to apply or when the order must be reviewed will be included in the resolution.

- 7.5 The resolution will also indicate whether any delegation is given to the Chief Executive Officer to revoke the order and if relevant, any conditions associated with this delegation.
- 7.6 The minutes available to the public shall also record that part of the resolution that identifies the relevant grounds (special circumstance) and duration of the order and any delegation to revoke the order, should this be applicable.
- 7.7 For the convenience of the public present at a meeting, all matters listed on an Agenda with a request to be considered in confidence by the Chief Executive Officer are listed for consideration at the end of the meeting, after all the other business has been dealt with.
- 7.8 At the conclusion of a meeting considering a matter in confidence the meeting room will be opened again permitting public attendance. However on return to the meeting room there is the possibility of the same process being repeated for a subsequent matter.
- 7.9 Once a resolution has been passed to exclude the public, the Presiding Member will request that the public leave the meeting room.
- 7.10 Once a meeting of Council or the Committee has made the order to exclude the public, it is an offence for a person who, knowing that an order is in force, enters or remains in a room in which such a meeting is being held. It is lawful for an employee of Council or a member of the police to use reasonable force to remove a person from the room who failed to leave on request.

8. SPECIAL CIRCUMSTANCES FOR WHICH THE PUBLIC CAN BE EXCLUDED FROM ATTENDANCE AT A COUNCIL OR COUNCIL COMMITTEE MEETING

- 8.1 A Council or Council Committee may order that the public be excluded from attendance at a meeting because the Council or Council Committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed below:
- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (b) Information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;

- (c) Information the disclosure of which would reveal a trade secret;
- (d) Commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (i) Could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) Would, on balance, be contrary to the public interest;
- (e) Matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
- (f) Information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) Matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) Legal advice;
- (i) Information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
- (j) Information the disclosure of which:
 - (i) Would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) Would, on balance, be contrary to the public interest;
- (k) Tenders for the supply of goods, the provision of services or the carrying out of works;
- (m) Information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
- (n) Information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*.

9. PUBLIC ACCESS TO MINUTES

9.1 Minutes of meetings of Council and Council Committees will be made available to the public within five (5) days of the meeting:

- On the Council's internet site www.adelaidecitycouncil.com; and

- At the Customer Centre free of charge.

9.2 On every occasion that the provision to exclude the public from attendance is exercised the Minutes of every meeting will include the proceedings making an order and the grounds on which the order was made.

10. PUBLIC ACCESS TO DOCUMENTS

10.1 In addition to making Council and Council Committee meeting documentation available on its website, the Adelaide City Council makes available a number of hard copy Agenda (with reports/attachments) at the Customer Centre and the meeting room prior to the meeting and a number of hard copy Minutes at the Customer Centre after the meeting all free of charge.

10.2 Various documents will be available for public inspection and purchase for a fee (as specified in the Schedule of Fees and Charges). Council may also make documents available in electronic form and place it on the internet www.adelaidecitycouncil.com for public access.

These documents are listed in the Freedom of Information Statement

10.3 Council or a Council Committee will only order that a document associated with a discussion from which the public are excluded will remain confidential, if it is considered absolutely necessary in the broader community interest and can only make orders in relation to documents that were considered in confidence in accordance with the prescribed special circumstances identified in the Act.

10.4 Any inquirers in relation to the process for seeking access to documents held by the Council should be directed to the Freedom of Information Officer on 8203 7459 or t.wagner@adelaidecitycouncil.com

11. REVIEWING AND REVOKING CONFIDENTIAL ORDERS

11.1 A review of the reports and documents that were considered in confidence under the prescribed special circumstances identified in the Act and for which a confidentiality order applies will be conducted annually.

11.2 The outcome of the annual review will be presented to Council and will identify which Confidentiality Orders will continue operation and which Confidential Orders or part thereof has been revoked.

11.3 The outcome of the annual review when presented to Council will also publish the reports and documents for which a Confidentiality Order has been revoked.

12. REPORTING

- 12.1 Quarterly Annual Business Plan and Budget Performance reporting to Council reports and monitors a KPI target (100%) that has been linked with the availability of Agenda & Minutes on the Internet within the prescribed timeframes in Section 5 and 9 respectively.
- 12.2 To monitor performance in the distribution of Agenda and Minutes to Council members and the public – staff responsible for these documents have a performance requirement in their annual individual performance plan to meet or exceed Statutory requirements.
- 12.3 Council will report on an annual basis in the Annual Report on the use of all of the confidentiality provisions.
- 12.4 Copies of the Annual Report are available at the Customer Centre and on the Council's website www.adelaidecitycouncil.com.

13. REVIEW

- 13.1 This Statutory Code of Practice Guideline will be reviewed within 12 months of the conclusion of the 2010 Periodic Election.

14. ACCESS TO THE CODE

- 14.1 The public may inspect a copy of the Code, without charge at the Customer Service Centre during office hours and on Council's website www.adelaidecitycouncil.com.
- 14.2 A copy of the Code may be purchased upon payment of a fixed fee set by Council.

15. GRIEVANCES

- 15.1 Should a person be aggrieved about access to either a meeting of Council or Council Committee or associated documents, complaints should be made in writing to the Manager, Corporate Governance (contact details below).

16. FURTHER INFORMATION

For further information about this Code of Practice, please contact:

Manager, Corporate Governance

Adelaide City Council

25 Pirie Street

ADELAIDE, SA, 5000

Phone: 8203 7131

APPENDIX 1: LEGISLATIVE PROVISIONS

Extract from the **Local Government Act 1999**

Chapter 6—Meetings

Part 1—Council meetings

81—Frequency and timing of ordinary meetings

- (1) Subject to this section, ordinary meetings of a council will be held at times and places appointed by a resolution of the council.
- (2) There must be at least one ordinary meeting in each month.
- (3) If a time and place has not been appointed for the holding of an ordinary meeting during a month, the chief executive officer must appoint the time and place at which the ordinary meeting for the month is to be held.
- (4) The chief executive officer must also appoint the time and place at which the first ordinary meeting of a council will be held—
 - (a) after the council is constituted under Chapter 3; or
 - (b) after a general election of the council.
- (5) Ordinary meetings of a council may not be held on Sundays, or on public holidays.
- (6) In the case of a municipal council, ordinary meetings of the council may not be held before 5 p.m. unless the council resolves otherwise by a resolution supported unanimously by all members of the council.
- (7) A resolution under subsection (6) does not operate in relation to a meeting held after the conclusion of the general election next held following the making of the resolution.

82—Calling of special meetings

- (1) The chief executive officer must, at the request of—
 - (a) the principal member of the council; or
 - (b) at least three members of the council; or
 - (c) a council committee at which at least three members of the council vote in favour of the making of the request,call a special meeting of the council.
- (2) The chief executive officer must be provided with an agenda for the special meeting at the time that a request is made under subsection (1) (and if an agenda is not provided then the request has no effect).
- (3) Special meetings may be held at any time.

83—Notice of ordinary or special meetings

- (1) In the case of an ordinary meeting, the chief executive officer must give each member of the council notice of the meeting at least three clear days before the date of the meeting.
- (2) In the case of a special meeting, the chief executive officer must give each member of the council notice of the meeting at least four hours before the commencement of the meeting.

- (3) Notice of a meeting of the council must—
- (a) be in writing; and
 - (b) set out the date, time and place of the meeting; and
 - (c) be signed by the chief executive officer; and
 - (d) contain, or be accompanied by, the agenda for the meeting.
- (4) The chief executive officer must, insofar as is reasonably practicable—
- (a) ensure that items on an agenda given to members of the council under this section are described with reasonable particularity and accuracy; and
 - (b) supply to each member of the council at the time that notice of a meeting is given a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
- (5) The chief executive officer may indicate on a document or report provided to members of the council under subsection (4) (or on a separate notice) any information or matter contained in or arising from a document or report that may, if the council so determines, be considered in confidence under Part 3, provided that the chief executive officer at the same time specifies the basis on which an order could be made under that Part.
- (6) Notice may be given to a member of a council under this section—
- (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
 - (c) by leaving the notice for the member at an appropriate place at the principal office of the council, if authorised in writing by the member to do so; or
 - (d) by a means authorised in writing by the member as being an available means of giving notice (eg facsimile transmission).
- (7) A notice that is not given in accordance with subsection (6) is taken to have been validly given if the chief executive officer considers it impracticable to give the notice in accordance with that subsection and takes action the chief executive officer considers reasonably practicable in the circumstances to bring the notice to the attention of the member.
- (8) The chief executive officer must maintain a record of all notices of meetings given under this section to members of the council.
- (9) The fact that a notice of a meeting has not been given to a member of a council in accordance with this section does not, of itself, invalidate the holding of the meeting or a resolution or decision passed or made at the meeting but the District Court may, on the application of the Minister, annul a resolution or decision passed or made at the meeting and make such ancillary or consequential orders as it thinks fit if satisfied that such action is warranted in the circumstances of the particular case.

84—Public notice of council meetings

- (1) The chief executive officer must give notice to the public of the times and places of meetings of the council.
- (2) Notice under subsection (1) is given by causing a copy of the notice and agenda for a meeting to be placed on public display at the principal office of the council—
 - (a) in the case of an ordinary meeting—at least three clear days before the date of the meeting; or

- (b) in the case of a special meeting—as soon as practicable after the time that notice of the meeting is given to members of the council.
- (2a) The chief executive officer may also give notice to the public of the time and place of a meeting of the council in such other manner as the chief executive officer considers appropriate after taking into account—
 - (a) the characteristics of the council's community and area; and
 - (b) the best ways to bring notice of a meeting of the council to the public's attention; and
 - (c) such other matters as the chief executive officer thinks fit.
- (3) A person is entitled, on payment of a fee fixed by the council, to obtain a copy of a notice and agenda on display under subsection (2).
- (4) The notice and agenda must be kept on public display under subsection (2) until the completion of the relevant meeting.
- (5) The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of the council for consideration at a meeting of the council are available for inspection by members of the public—
 - (a) in the case of a document or report supplied to members of the council before the meeting—at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the council; or
 - (b) in the case of a document or report supplied to members of the council at the meeting—at the meeting as soon as practicable after the time when the document or report is supplied to members of the council.
- (6) However, subsection (5) does not apply to a document or report—
 - (a) that is subject to the operation of section 83(5); or
 - (b) that relates to a matter dealt with by the council on a confidential basis under Part 3.

85—Quorum

- (1) The prescribed number of members of a council constitutes a quorum of the council and no business can be transacted at a meeting unless a quorum is present.

The *prescribed number* of members of a council is a number ascertained by dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one.
- (2) If a quorum is lost because a member cannot participate in a particular matter pursuant to Chapter 5 Part 4 Division 3, the matter must be adjourned (so that the remainder of the meeting may proceed).
- (3) If a quorum cannot be obtained for consideration of a particular matter because of the operation of Chapter 5 Part 4 Division 3, the council may proceed to consider the matter without a quorum with the approval of the Minister.

86—Procedure at meetings

- (1) The principal member of a council will preside at a meeting of the council.
- (2) If the principal member is absent from a meeting of a council and there is a deputy, the deputy will preside but if there is no deputy or the deputy is not available to preside, a member of the council chosen by those present will preside.

- (3) If—
- (a) a person is to be chosen to be the principal member of a council at a meeting of the council; or
 - (b) a member of the council must be chosen by those present at a meeting of the council to preside at the meeting,
- the chief executive officer will preside until the matter is decided.
- (4) Subject to this Act, a question arising for decision at a meeting of a council will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (5) Each member present at a meeting of a council must, subject to a provision of this Act to the contrary, vote on a question arising for decision at that meeting.
- (6) The mayor of a council, or other member presiding in the absence of the mayor, at a meeting of the council, does not have a deliberative vote on a question arising for decision at the meeting but has, in the event of an equality of votes, a casting vote.
- (7) The chairperson of a council, or other member presiding in the absence of the chairperson, at a meeting of the council, has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.
- (8) Subject to this Act, the procedure to be observed at a meeting of a council will be—
- (a) as prescribed by regulation;
 - (b) insofar as the procedure is not prescribed by regulation—as determined by the council.
- (9) A meeting of a council may be adjourned from time to time and from place to place.

Part 2—Committee meetings

87—Calling and timing of committee meetings

- (1) Ordinary meetings of a council committee will be held at times and places appointed by the council or, subject to a decision of the council, the council committee.
- (2) A council or council committee must, in appointing a time for the holding of an ordinary meeting of a council committee, take into account—
 - (a) the availability and convenience of members of the committee; and
 - (b) the nature and purpose of the committee.
- (3) A resolution appointing a time for the holding of an ordinary meeting of a council committee does not operate after the conclusion of the general election next following the making of the resolution.
- (4) The chief executive officer must ensure that each member of a council committee is given notice of an ordinary meeting of the committee at least three clear days before the date of the meeting.
- (5) The chief executive officer must, at the request of—
 - (a) the presiding member of a council committee; or
 - (b) at least two members of a council committee,call a special meeting of a council committee.
- (6) Special meetings of a council committee may be held at any time.
- (7) The chief executive officer must ensure that each member of a council committee is given notice of a special meeting of the committee at least four hours before the commencement of the meeting.
- (8) Notice of a meeting of a council committee must—
 - (a) be in writing; and
 - (b) set out the date, time and place of the meeting; and
 - (c) contain, or be accompanied by, the agenda for the meeting.
- (9) The chief executive officer must, insofar as is reasonably practicable—
 - (a) ensure that items on an agenda given to members of a council committee under this section are described with reasonable particularity and accuracy; and
 - (b) ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
- (10) The chief executive officer may indicate on a document or report provided to members of the committee under subsection (9) (or on a separate notice) any information or matter contained in or arising from a document or report that may, if the committee so determines, be considered in confidence under Part 3, provided that the chief executive officer at the same time specifies the basis on which an order could be made under that Part.
- (11) Notice may be given to a member of a committee under this section—
 - (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
 - (c) by leaving the notice for the member at an appropriate place at the principal office of the council, if authorised in writing by the member to do so; or

- (d) by a means authorised in writing by the member as being an available means of giving notice (eg facsimile transmission).
- (12) A notice that is not given in accordance with subsection (11) is taken to have been validly given if the chief executive officer considers it impracticable to give the notice in accordance with that subsection and takes action the chief executive officer considers reasonably practicable in the circumstances to bring the notice to the attention of the member of the committee.
- (13) The chief executive officer must ensure that a record of all notices of meetings given under this section is maintained.
- (14) The fact that a notice of a meeting has not been given to a member of a committee in accordance with this section does not, of itself, invalidate the holding of the meeting or a resolution or decision passed or made at the meeting but the District Court may, on the application of the Minister, annul a resolution or decision passed or made at the meeting and make such ancillary or consequential orders as it thinks fit if satisfied that such action is warranted in the circumstances of the particular case.
- (15) The regulations may modify the application of this section for council committees that are not performing regulatory activities of councils.

88—Public notice of committee meetings

- (1) The chief executive officer must ensure that notice is given to the public of the times and places of meetings of a council committee.
- (2) Notice under subsection (1) is given by causing a copy of the notice and agenda for a meeting to be placed on public display at the principal office of the council as soon as practicable after the time that notice of the meeting is given to members of the committee.
- (2a) The chief executive officer may also give notice to the public of the time and place of a meeting of a council committee in such other manner as the chief executive officer considers appropriate after taking into account—
 - (a) the work of the committee and the characteristics of the council's community and area; and
 - (b) the best ways to bring notice of a meeting of the committee to the public's attention; and
 - (c) such other matters as the chief executive officer thinks fit.
- (3) A person is entitled, on payment of a fee fixed by the council, to obtain a copy of a notice and agenda on display under subsection (2).
- (4) The notice and agenda must be kept on public display under subsection (2) until the completion of the relevant meeting.
- (5) The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of a council committee for consideration at a meeting of the committee are available for inspection by members of the public at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the committee.
- (6) However, subsection (5) does not apply to a document or record—
 - (a) that is subject to the operation of section 87(10); or
 - (b) that relates to a matter dealt with by the council or council committee on a confidential basis under Part 3.
- (7) The regulations may modify the application of this section for council committees that are not performing regulatory activities of councils.

89—Proceedings of council committees

- (1) Subject to this Act, the procedure to be observed in relation to the conduct of meetings of a council committee will be—
 - (a) as prescribed by regulation;
 - (b) insofar as the procedure is not prescribed by regulation—as determined by the council;
 - (c) insofar as the procedure is not prescribed by regulation or determined by the council—as determined by the council committee itself.
- (2) A meeting of a council committee may be adjourned from time to time and from place to place.

Part 3—Public access to council and committee meetings

90—Meetings to be held in public except in special circumstances

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).
- (3) The following information and matters are listed for the purposes of subsection (2):
 - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (b) information the disclosure of which—
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;
 - (c) information the disclosure of which would reveal a trade secret;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
 - (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
 - (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
 - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
 - (h) legal advice;
 - (i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;

- (j) information the disclosure of which—
- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (m) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
- (n) information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*.
- (4) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may—
- (a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - (b) cause a loss of confidence in the council or council committee.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to—
- (a) a member of the council or the council committee; or
 - (b) any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order and of the grounds on which it was made.
- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
- (a) members of the council or council committee; or
 - (b) members of the council or council committee and staff,

provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

Examples—

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) planning sessions associated with the development of policies or strategies;
- (b) briefing or training sessions;
- (c) workshops;
- (d) social gatherings to encourage informal communication between members or between members and staff.

(9) In this section—

personal affairs of a person includes—

(a) that person's—

- (i) financial affairs;
- (ii) criminal records;
- (iii) marital or other personal relationships;
- (iv) personal qualities, attributes or health status;

(b) that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person,

but does not include the personal affairs of a body corporate.

Part 4—Minutes of council and committee meetings and release of documents

91—Minutes and release of documents

- (1) The chief executive officer must ensure that minutes are kept of the proceedings at every meeting of the council or a council committee.
- (2) If the chief executive officer is excluded from a meeting pursuant to Part 3, the person presiding at the meeting must ensure that minutes are kept.
- (3) Each member of the council must, within five days after a meeting of the council or a council committee, be supplied with a copy of all minutes of the proceedings of the meeting kept under this section.
- (4) A copy of the minutes of a meeting of the council must be placed on public display in the principal office of the council within five days after the meeting and kept on display for a period of one month.
- (5) A person is entitled to inspect, without payment of a fee, at the principal office of the council—
 - (a) minutes kept under this section; and
 - (b) reports to the council or a council committee received at a meeting of the council or committee; and
 - (c) recommendations presented to the council in writing and adopted by resolution of the council; and
 - (d) budgetary or other financial statements adopted by the council.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of any documents available for inspection under subsection (5).
- (7) However, subsections (4), (5) and (6) do not apply to a document or part of a document if—
 - (a) the document or part relates to a matter dealt with by the council or council committee on a confidential basis under Part 3; and
 - (b) the council or council committee orders that the document or part be kept confidential.
- (8) A council must not make an order under subsection (7)—
 - (a) to prevent the disclosure of the remuneration or conditions of service of an employee of the council after the remuneration or conditions have been set or determined; or
 - (b) to prevent the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the council as to why a successful tenderer has been selected; or

- (ba) to prevent the disclosure of the amount or amounts payable by the council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the council after the contract has been entered into by all parties to the contract; or
 - (c) to prevent the disclosure of the identity of land that has been acquired or disposed of by the council, or of any reasons adopted by the council as to why land has been acquired or disposed of by the council.
- (9) If an order is made under subsection (7)—
- (a) the council or council committee must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed, and, in any event, any order that operates for a period exceeding 12 months must be reviewed at least once in every year; and
 - (b) the council or council committee must ensure that a note is made in the minutes recording the making of the order, the grounds on which it was made, and the decision of the council or council committee under paragraph (a); and
 - (c) the council or council committee may delegate to an employee of the council the power to revoke the order.
- (10) No action for defamation lies against the council in respect of—
- (a) the accurate publication under this section of any information, statement or document (in whatever form); or
 - (b) the accurate publication under this section of a transcript, recording or other record of a meeting of a council or a council committee.
- (11) A document purporting to be minutes of proceedings at a meeting of a council, or a council committee, or to be a copy of or extract from such minutes, and to be signed by the chief executive officer, will be accepted as proof, in the absence of proof to the contrary, of the matters contained in the document.

Part 5—Code of practice

92—Access to meetings and documents—code of practice

- (1) A council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of Parts 3 and 4.
- (2) A council must, within 12 months after the conclusion of each periodic election, review the operation of its code of practice under this section.
- (3) A council may at any time alter its code of practice, or substitute a new code of practice.
- (4) A code of practice must include any mandatory provision prescribed by the regulations.
- (5) Before a council adopts, alters or substitutes a code of practice under this section it must—
 - (a) make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the council's principal office; and
 - (b) follow the relevant steps set out in its public consultation policy.
- (6) A person is entitled to inspect (without charge) the code of practice of a council at the principal office of the council during ordinary office hours.
- (7) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.

Part 6—Meetings of electors

93—Meetings of electors

- (1) A council may convene a meeting of electors of the area or a part of the area.
- (2) The chief executive officer must, by advertisement in a newspaper circulating in the area, give notice of the time and place of a meeting of electors, and of the nature of the business to be transacted at the meeting, at least 14 days and not more than 28 days before the date of the meeting.
- (3) The following persons are entitled to attend and vote at a meeting convened under this section:
 - (a) in the case of a meeting of electors of an area—
 - (i) any person who is enrolled on the voters roll for the area as an elector; and
 - (ii) a nominee of a body corporate or group which has its name on the voters roll for the area;
 - (b) in the case of a meeting of electors of a part of an area—
 - (i) any person who is enrolled on the voters roll for the area as an elector—
 - (A) in respect of a place of residence within that part of the area; or
 - (B) in respect of rateable property within that part of the area; or
 - (ii) a nominee of a body corporate which is a ratepayer, or of a group of persons who are ratepayers, in respect of rateable property within that part of the area.
- (4) A meeting of electors under this section cannot proceed unless at least one member of the council is present at the meeting.
- (5) If the principal member of the council is present and available to preside at a meeting of electors held under this section, he or she must preside at the meeting.
- (6) If the principal member is absent from a meeting of electors held under this section or is not available to preside at the meeting, the following provisions apply:
 - (a) if there is a deputy mayor or deputy chairperson available to preside at the meeting—the deputy must preside;
 - (b) if there is no deputy or he or she is not available to preside—a member of the council appointed by the council must preside;
 - (c) if no member of the council is so appointed or a member so appointed is absent from the meeting—a member chosen by the persons present and lawfully voting at the meeting must preside.
- (7) A question to be decided at a meeting of electors will be decided by a majority of the votes of the persons present and lawfully voting at the meeting.
- (8) A person present at the meeting who is entitled to vote on a question arising for decision at the meeting in his or her own capacity as an elector may also, if the person is a nominee of a body corporate or a group of persons who are ratepayers, vote in that capacity as a nominee.
- (9) The member presiding at a meeting of electors does not, in the event of an equality of votes, have a casting vote.
- (10) The chief executive officer of the council must ensure that minutes are kept of the proceedings at a meeting of electors.
- (11) Each member of the council must, within five days after a meeting of electors, be supplied with a copy of the minutes of the proceedings.
- (12) The member presiding at a meeting of electors must transmit a resolution passed at a meeting held under this section to the council.

- (13) A meeting of electors may be adjourned from time to time and from place to place.
- (14) The procedure to be observed to make a nomination for the purposes of subsection (3)(a)(ii) or (b)(ii) will be as determined by the council.
- (15) Subject to this Act, the procedure to be observed at a meeting of electors will be as determined by the person presiding at the meeting.

Part 7—Related matters

93A—Audits by Ombudsman

- (1) The Ombudsman may, if the Ombudsman considers it to be in the public interest to do so, conduct a review of the practices and procedures (or of any aspect of the practices or procedures) of one or more councils or council committees under Part 3 or Part 4.
- (2) The Ombudsman may, in carrying out a review under this section, exercise the powers of the Ombudsman under the *Ombudsman Act 1972* as if carrying out an investigation under that Act, subject to such modifications as may be necessary, or as may be prescribed.
- (3) At the conclusion of a review under this section, the Ombudsman may prepare a report on any aspect of the review.
- (4) A report may make recommendations to a council or councils.
- (5) The Ombudsman must supply a copy of any report to—
 - (a) the Minister; and
 - (b) any council that was under review, or that has (or had) a council committee that was under review,and may also publish any report, a part of any report, or a summary of any report, in such manner as the Ombudsman thinks fit.
- (6) The Minister may also publish any report, a part of any report, or a summary of any report, in such manner as the Minister thinks fit.
- (7) This section does not limit powers of investigation under other provisions of this or another Act.

94—Investigation by Ombudsman

- (1) The Ombudsman may, on receipt of a complaint, carry out an investigation under this section if it appears to the Ombudsman that a council may have unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4.
- (2) The Ombudsman may, in carrying out an investigation under this section, exercise the powers of the Ombudsman under the *Ombudsman Act 1972* as if carrying out an investigation under that Act.
- (3) At the conclusion of an investigation under this section, the Ombudsman must prepare a written report on the matter.
- (4) The Ombudsman must supply the Minister and the council with a copy of the report, and may also publish the report, a part of the report, or a summary of the report, in such manner as the Ombudsman thinks fit.
- (5) If the Minister, after taking into account the report of the Ombudsman under this section, believes that the council has unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4, the Minister may give directions to the council with respect to the future exercise of its powers under either or both of those sections, or to release information that should, in the opinion of the Minister, be available to the public.

- (6) The Minister must, before taking action under subsection (5), give the council a reasonable opportunity to make submissions to the Minister in relation to the matter.
- (7) A council must comply with a direction under subsection (5).
- (7a) The Minister may also publish the report, a part of the report, or a summary of the report, in such manner as the Minister thinks fit.
- (8) This section does not limit other powers of investigation under other provisions of this or another Act.

94A—Meeting information on website

The chief executive officer of a council must, so far as is reasonably practicable, make available for inspection on the Internet an up-to-date schedule of the dates, times and places set for meetings of the council and council committees.

95—Obstructing meetings

A person who intentionally obstructs or hinders proceedings at a meeting of a council or council committee, or at a meeting of electors, is guilty of an offence.

Maximum penalty: \$1 250.

Extract from the Freedom of Information Act 1991

Part 3—Access to documents

Division 1—General

12—Right of access to agencies' documents

A person has a legally enforceable right to be given access to an agency's documents in accordance with this Act.

13—Applications for access to agencies' documents

An application for access to an agency's document—

- (a) must be in writing; and
- (b) must specify that it is made under this Act; and
- (c) must be accompanied by such application fee as may be prescribed; and
- (d) must contain such information as is reasonably necessary to enable the document to be identified; and
- (e) must specify an address in Australia to which notices under this Act should be sent; and
- (f) must be lodged at an office of the agency, and may request that access to the document be given in a particular way.

Extract from the **Local Government (Procedures at Meetings) Regulations 2000** under the **Local Government Act 1999**

Part 2—Meetings of councils and key committees

Division 1—Preliminary

6—Application of Part

The provisions of this Part apply to or in relation to—

- (a) the meetings of a council; and
- (b) the meetings of a council committee performing regulatory activities; and
- (c) the meetings of any other council committee if the council has, by resolution, determined that this Part should apply to that committee.

Division 2—Prescribed procedures

9—Minutes

- (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 amendment 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) any other matter required to be included in the minutes by or under the Act or any regulation.

12—Deputations

- (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 subregulation (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 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.

Part 3—Meetings of other committees

22—Application of Part

The provisions of this Part apply to or in relation to the meetings of any council committee that is not subject to the operation of Part 2.

25—Minutes

- (1) The minutes of the proceedings of a meeting must include—
 - (a) the names of the members present at the meeting; and
 - (b) each motion carried at the meeting; and
 - (c) any disclosure of interest made by a member; and
 - (d) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
 - (e) 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.

Part 4—Miscellaneous

30—Interruption of meetings by others

A member of the public who is present at a meeting of a council or council committee must not—

- (a) behave in a disorderly manner; or
- (b) cause an interruption.

Maximum penalty: \$500.