

# Code of Practice for Public Access to Meetings and Meeting Documents

Code Author	General Manager Strategy & Corporate
Date of next review	February 2027

## 1. Purpose

The Code of Practice for Public Access to Meetings and Meeting Documents (the Code) provides a consistent framework for the public to access Council and Committee meetings and associated documents. The Code outlines the procedures in place to restrict public access, when appropriate, in accordance with the relevant sections the *Local Government Act 1999* (the Act).

The Code demonstrates Council's commitment to the principle of open transparent and informed decision making and encourages community participation and access to meetings and documents wherever possible.

This Code of Practice includes information relating to:

- access to the agenda for meetings;
- public access to meetings;
- the process to exclude the public from meetings;
- matters for which the Council, or a Council committee, can order that the public be excluded;
- how the Council will approach the use of the confidentiality provisions in the Act;
- public access to documents, including minutes;
- review of confidentiality orders; and
- accountability and reporting to the community.

## 2. Scope

This Code applies to all Council Members, Independent Members, employees and the general public.

## 3. References and Supporting Documentation

The Code of Practice for Public Access to Meetings and Meeting Documents should be read in conjunction with the Code of Practice for Council and Committee Meetings.

- *Local Government Act 1999* – Sections 84, 88. 90, Schedule 4, Schedule 5
- *Local Government (General) Regulations 2013* – Regulation 8AB
- Freedom of Information Act 1991
- Code of Practice for Council and Committee Meetings
- City of Playford Global Glossary

## 4. Application

Council Members	Maintain a thorough and complete understanding of the Code and act in accordance with the prescribed instructions.
Chief Executive Officer	Ensure that the Code is implemented appropriately and subject to periodic evaluation and review.
Governance	Ensure Council and Committee meeting notices and agendas are displayed on Council's website and the principal office of the Council three clear days before a meeting.  Ensure Council and Committee meeting minutes are provided to Council Members within 5 days after a meeting.  Ensure Council and Committee meeting minutes are published on Council's website.

## 5. Policy

### 5.1 Public Access Agendas for Meetings

- 5.1.1 At least three clear days before a Council or Council Committee meeting (unless it is a Special Meeting) the Chief Executive Officer (CEO) must give written notice of the meeting to all Council/Council Committee members setting out the date, time and place of the meeting. The notice must contain or be accompanied by the agenda for the meeting.
- 5.1.2 As soon as practicable after a notice of a meeting and agenda is supplied to members of the Council, the notice of a meeting will be placed on public display at the principal office of the Council, 10 Playford Boulevard, Elizabeth and on Council's website.
- 5.1.3 The notice and agenda will be kept on public display and continue to be published on the website until the completion of the relevant Council or Council Committee meeting.
- 5.1.4 In the case of a document or report supplied to members of the Council at the meeting, these documents will also be subsequently uploaded onto the Council's website.
- 5.1.5 Members of the public may request a copy of a meeting notice and/or agenda on payment of a fee, in accordance with Council's Schedule of Fees and Charges.
- 5.1.6 Where the CEO believes that a document or report on a particular matter should be considered in confidence, with the public excluded, the basis under which the confidential order could be made, will be specified, in accordance with Section 90(3) of the Act.

## 5.2 Public Access to Meetings

- 5.2.1 Council and Council Committee meetings are open to the public, noting there may be circumstances where the Council (or the Council committee) believes it is necessary in the broader community interest to exclude the public from the meeting.
- 5.2.2 The public will only be excluded when considered proper and necessary i.e. the need for confidentiality outweighs the principle of open decision-making.

## 5.3 Public Access to Information or Briefing Sessions

- 5.3.1 Council or the CEO are permitted to facilitate an 'information or briefing session' where the Council or Council Committee is invited.
- 5.3.2 A matter must not be dealt with at an information or briefing session in such a way so as to obtain, or effectively obtain, a decision outside of a formally constituted meeting of Council or Committee.
- 5.3.3 An information or briefing session on a matter that will be included on a council agenda must be open to the public. However, the Council or the CEO may order that the information or briefing session be closed to the public if the matter listed for discussion falls within the confidentiality provisions listed in section 90(3) of the Act.
- 5.3.4 Whether or not an information or briefing session has been open to the public, the following information must be published as soon as practicable after the holding of the session:
- the place, date and time of the session;
  - the matter discussed at the session; and
  - whether or not the session was open to the public.

## 5.4 Process to Exclude the Public from a Meeting

- 5.4.1 Before a meeting orders that the public be excluded to enable consideration of a particular matter in confidence, the Council or Council Committee must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter. If this occurs, then the public must leave the room. This means that all members of the public (including staff, but not including a member of the Council or Council Committee), unless exempted by being named in the resolution as entitled to remain, are required to leave the room.

- 5.4.2 Once Council, or a Council Committee has made the order, it is an offence for a person, who knowing that an order is in force, to enter or remain in the meeting room. It is lawful for a member of the police to use reasonable force to remove the person from the room if he or she fails to leave on request.
- 5.4.3 Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter that needs to be considered in confidence it is necessary to repeat the formal determination process and to resolve to exclude the public.
- 5.4.4 The Council or a Council Committee, can permit a particular person or persons to remain in the meeting by including reference to them within the resolution to consider a matter in confidence.

## 5.5 Use of the Confidentiality Provisions

- 5.5.1 The Council or a Council Committee, may order that the public be excluded in order to receive, discuss or consider any information or matters in confidence specified in section 90(3) of the Act.
- 5.5.2 With respect to matters on a council agenda, where a person provides information to the Council and requests that it be kept confidential, Council is not able to even consider this request unless the matter is one that falls within section 90(3).
- 5.5.3 In considering whether an order should be made under section 90(2) of the Act, it is irrelevant that discussion of a matter in public may:
  - (a) cause embarrassment to the Council or Council Committee concerned, or to Council Members or employees of the Council;
  - (b) cause a loss of confidence in the Council or Council Committee;
  - (c) involve discussion of a matter that is controversial within the Council area; or
  - (d) make the Council susceptible to adverse criticism.
- 5.5.4 Once discussion of the matter is concluded, the meeting must then consider if it is necessary to make an order identifying the document(s) (or parts of the document(s)) associated with that item (including minutes) that are to remain confidential.
- 5.5.5 If the meeting determines that it is necessary to keep a document(s) (or parts of document(s)) confidential, then a resolution for an order to this effect is required in accordance with section 91(7) of the Act.

- 5.5.6 The Council or the Council committee can only resolve to keep minutes and/or documents confidential under section 91(7) if they were considered in confidence at a Council or Committee Meeting pursuant to sections 90(2) and 90(3).
- 5.5.7 The Council will not consider multiple agenda items “in confidence” together i.e. en bloc. It will determine each item separately and consider the exemptions relevant to each item.
- 5.5.8 Once discussion of the matter is concluded and the public have returned, the decision in relation to the matter will be communicated unless the Council has resolved to order that the resolution remain confidential.
- 5.5.9 The Council or the Council committee must not make an order to prevent the disclosure of certain information in accordance with section 91(8) of the Act.
- 5.5.10 Where keeping a document confidential is considered necessary, a resolution to this effect is required which shall include:
- the grounds for confidentiality; and
  - 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 – if the order has a duration of more than 12 months, the order must be reviewed at least once in every year; and
  - (if applicable) whether the power to revoke the order will be delegated to an employee of the Council.

## **5.6 Public Access to Minutes**

- 5.6.1 Minutes of a meeting of Council or a Council Committee will be publicly available on Council’s website.
- 5.6.2 Members of the public may request a copy of minutes on payment of a fee, in accordance with Council’s Schedule of Fees and Charges.

## **5.7 Review of Confidentiality Orders**

- 5.7.1 A confidentiality order made under Section 91(7) of the Act, must specify the duration of the order, the circumstances in which the order will cease to apply, or a period after which the order must be reviewed. Any order that operates for a period exceeding 12 months must be reviewed at least once in every year.
- 5.7.2 An order will lapse if the time or event specified has been reached or completed. Council are not required to resolve for the confidentiality order to be lifted. Once an order expires or ceases to apply, the minutes and/or

documents automatically become public. At this point in time, the Council will make this information publicly available by publishing it on the Council's website.

- 5.7.3 A review of the reports or documents that were considered under the provision of Sections 90(3) and 91(7) of the Act must be reviewed at least once in every year to ensure that items are released in accordance with the resolution of Council, when the confidential provision no longer applies.
- 5.7.4 Orders that exceed 12 months must be reviewed annually and Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the minutes and/or documents remaining confidential. The conduct of the annual review can be delegated to the CEO and sub-delegated to an employee of the Council if appropriate. If there are any items that require a fresh confidentiality order because the original order is about to expire, then the reviewer will prepare a report to Council making recommendations with respect to each item to be retained in confidence. Each item must be addressed separately and assessed against section 90(3) and section 91(7) of the Local Government Act. While a Council may delegate the power to undertake an annual review, the Council cannot delegate the power to apply Sections 90(3) and 91(7) of the Act.
- 5.7.5 Council may resolve to exclude the public from a meeting to discuss and undertake consideration of the recommendations arising from the annual review in confidence, subject to the application of the relevant ground under section 90(3) of the Local Government Act. Section 90(3) of the Local Government Act must be applied separately to each item within the scope of the review and not en bloc.
- 5.7.6 Council or a Council Committee may also include in the resolution whether a delegation is given to an employee to revoke the order and if relevant, any conditions associated with the delegation.

## **5.8 Accountability and Reporting to the Community**

- 5.8.1 Consistent with the principle of accountability to the community, a report on the use of sections 90(2) and 91(7) by the Council and Council committees will be included in Council's annual report as required by Schedule 4 of the Act. . The information detailed in the report will include (separately identified for Council and Council Committees):
- Total number of orders, date and subject of each order made under sections 90(2) and 90(3) and 91(7); in the relevant financial year;
  - Number of occasions in the relevant financial year that an order was made under section 90(2) and 90(3) for each of the grounds listed in

section 90(3) The number of orders made under section 91(7) that expired, ceased to apply or were revoked during the relevant financial year and the date and subject of each such order; and

- The number of orders made under section 91(7) since 15 November 2010 that remained operative at the end of the relevant financial year.

## 5.9 Public access to documents

- 5.9.1 The Act requires Councils to make available a large number of documents. Many of these are set out in Schedule 5, with other requirements contained in other sections of the Act.
- 5.9.2 Schedule 5 documents must be published on a website determined by the CEO. Councils must also, upon request, provide a person with a printed copy of any document referred to in Schedule 5. Provision of printed copies of a document may require payment of a fee, in accordance with Council's Schedule of Fees and Charges.
- 5.9.3 Requests to access Council and Council Committee documents that are not otherwise publicly available, can be made under the Freedom of Information Act 1991. Inquiries in relation to the process for seeking access to documents held by Council should be directed to Council's accredited Freedom of Information Officer.

## 6. Feedback

Your feedback on this policy is invited and can be directed to the Manager Governance via email to [governance@playford.sa.gov.au](mailto:governance@playford.sa.gov.au) or by calling the Customer Contact Team on 8256 0333

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### Administration use only

ECM document set no.	2244543
Version no.	5
Code Author	–General Manager Strategy and Corporate
Endorsed by	<i>Council</i>
Resolution no.	
Legal requirement	<i>Local Government Act 1999 – section 92</i>
Review schedule	<i>4 Years</i>
Date of current version	February 2023
Date of next review	February 2027

## Version history

Version no.	Approval date	Approval by	Change
1.0	28/06/2011	Council - Resolution No. 306	1. New Document
2.0	31/01/2012	Council – Resolution No. 625	1. Scheduled Review
3.0	25/08/2015	Council – Resolution No. 2250	<ol style="list-style-type: none"><li>1. Code of Practice transferred into Corporate Template</li><li>2. Policy Statement Updated</li><li>3. Legislation Section Updated</li><li>4. Sections Re-numbered</li><li>5. Confidential Provision Information updated</li><li>6. Examples of Confidential Steps updated</li><li>7. Removed section 2.3 – ‘Consultation’ which has a requirement to consult with the public prior to adoption of the Code of Practice for Public Access to Meetings and Associated Documents</li></ol>
4.0	28/01/2020	Council – Resolution No. 3891	<ol style="list-style-type: none"><li>1. Removal of reference to Freedom of Information Requests as meetings and meeting documents are open to the public (unless held in confidence)</li><li>2. Removal of reference to Council’s report template as it is not relevant to the Code</li><li>3. A review of confidential reports or documents occurs every 12 months</li><li>4. Removal of reference to Grievance Handling Policy as it is no longer a Council Policy</li><li>5. Removal of extract from Local Government Act 1999 as it is not necessary to be included</li></ol>



4.1	07/04/2020	Council – Resolution No. 2983	<ol style="list-style-type: none"> <li>1. Addition of Appendix A Electronic Participation in Council Meetings Notice (No.1) 2020</li> <li>2. Amendments as per <i>Electronic Participation in Council Meetings Notice</i> (No.1) 2020</li> </ol>
5.0			<ol style="list-style-type: none"> <li>1. Changed to Corporate Policy Template to improve readability and clarity.</li> <li>2. Removal of Notice No 1</li> <li>3. Updates to legislation included, replacing reference to informal gatherings with Information or briefing sessions and new section on Schedule 5 documents.</li> </ol>

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Proposed