

## Purpose

The purpose of this policy is to ensure the orderly and proper conduct of Council's formal business in accordance with the Local Government Act 2009 and the Local Government Regulation 2012 and is guided by the Local Government principles as follows:

- transparent and effective processes, and decision-making in the public interest;
- sustainable development and management of assets and infrastructure, and delivery of effective services;
- democratic representation, social inclusion and meaningful community engagement;
- good governance of, and by, local government; and
- ethical and legal behaviour of local government employees.

## Scope

The following Standing Orders provide rules for the conduct of meetings other than a post-election meeting of the Whitsunday Regional Council.

Any provision of these Standing Orders may be suspended by resolution of any meeting of Council. A separate resolution is required for any such suspension and must specify the application and duration of each suspension.

Where at a Council Meeting a matter arises which is not provided for in these Standing Orders, such a matter shall be determined by resolution of Council upon a motion which may be put without notice but otherwise in conformity with these Standing Orders.

## Applicable Legislation

Local Government Act 2009

Local Government Regulation 2012

## Part 1: Procedures for Meetings of Council

### 1. Presiding Officer

- 1.1 The Mayor will preside at a meeting of Council.
- 1.2 If the Mayor is absent or unavailable to preside, the Deputy Mayor will preside.
- 1.3 If both the Mayor and the Deputy Mayor, or the Mayors' delegate, are absent or unavailable to preside, a Councillor chosen by the Councillors present at the meeting will preside at the meeting.
- 1.4 Council will choose the Chairperson for a Committee meeting. This Chairperson will normally preside over meetings of the Committee.
- 1.5 If the Chairperson of a Committee is absent or unavailable to preside, a Councillor chosen by the Councillors present will preside over the Committee meeting.

## 2. Order of Business

- 2.1 The order of business shall be determined by resolution of Council from time to time. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect. A motion to alter the order of business may be moved without notice.
- 2.2 Unless otherwise altered, the order of business shall be as follows:
- Acknowledgment of Traditional Owners
  - Apologies
  - Condolences
  - Mayoral Minute
  - Mayoral Update
  - Confirmation of the Minutes
  - Delegations
  - Petitions
  - Notices of Motion
  - Questions on Notice
  - Questions from the Public Gallery
  - Report by Departments
  - General Business
  - Confidential Matters
- 2.3 The minutes of a preceding meeting whether an ordinary or a special meeting, not previously confirmed shall be taken into consideration at every Ordinary Meeting of Council, in order that such minutes may be confirmed and no discussion shall be permitted with respect to such minutes except with respect of their accuracy as a record of the proceedings.

## 3. Agendas

- 3.1 The Agenda may contain:
- Notice of meeting
  - Minutes of the previous meetings
  - Business arising out of previous meetings
  - Business which the Mayor wishes to have considered at that meeting without notice
  - Matters of which notice has been given
  - Committees' reports to Council referred to the meeting by the CEO
  - Officers' reports to Council referred to the meeting by the CEO
  - Deputations and delegations
  - Any other business Council determines by resolution be included in the agenda paper.
- 3.2 Business not on the Agenda or not fairly arising from the Agenda shall not be considered at any Meeting unless permission for that purpose is given by Council at such meeting. Business must be in accordance with the adopted Terms of Reference for each Committee.

- 3.3 The Agenda for an Ordinary Meeting will be distributed to Councillors by close of business on the Friday prior to the day of the meeting.
- 3.4 Documents prepared for the purpose of assisting Councillors with their obligations under the Local Government Act 2009 regarding actual or perceived conflicts of interest and material personal interests will be distributed to Councillors with the Agenda of an Ordinary or Special Meeting at the discretion of the Chief Executive Officer.

#### **4. Notice of Business to be given by a Councillor**

- 4.1 Any Councillor wishing to give notice of any matter, must give notice in writing to the CEO at least four (4) business days prior to the meeting at which the business is to be discussed, excluding the meeting day.

#### **5. Mayoral Minute**

- 5.1 The Mayor may, by a signed minute, introduce a matter for consideration at a Meeting and the matter takes precedence over all other matters for consideration at the meeting and may be adopted by a motion moved by the Mayor without the need for the motion to be seconded.

#### **6. Petitions**

- 6.1 Any petition presented to a meeting of Council shall:
- be in legible writing or typewritten and contain a minimum of ten (10) signatures
  - include the name and contact details of the Principal Petitioner (i.e., one person who is the organiser and who will act as the key contact for the issue)
  - include the postcode of all petitioners, and
  - have the details of the specific request/matter appear on each page of the petition.
  - Have no offensive words/comments
- 6.2 Where a Councillor or the CEO presents a petition to a meeting of Council no debate on or in relation to it shall be allowed and the only motion which may be moved is that the petition be received; or received and referred to a committee or officer for consideration and a report to Council; or not be received because it is deemed invalid.
- 6.3 Council will respond to the Principal Petitioner in relation to all petitions deemed valid.

#### **7. Deputations**

- 7.1 A deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven (7) business days before the meeting.
- 7.2 The CEO, on receiving an application for a deputation shall notify the Mayor who shall determine whether the deputation may be heard. The CEO shall inform the deputation of the determination. Where it has been determined the deputation may be heard, a convenient time shall be arranged for that purpose, within a maximum period of 15 minutes.

- 7.3 For deputations comprised of three or more persons, only three persons shall be at liberty to address Council unless the Councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation within a maximum period of 15 minutes.
- 7.4 If a member of the deputation other than the appointed speakers interjects or attempts to address the Council, the Chairperson may finalise the deputation.
- 7.5 The Chair may terminate an address by a person in a deputation at any time where:
- a) the Chair is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting;
  - b) the time period allowed for a deputation has expired; or,
  - c) the person uses insulting or offensive language
- 7.6 The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

## Part 2: Motions

### 8. Motions to be moved

- 8.1 A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.
- 8.2 When a motion has been moved and seconded, it shall become subject to the control of Council and shall not be withdrawn without the consent of Council.
- 8.3 Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.
- 8.4 A motion brought before a meeting of Council in accordance with the Local Government Act 2009 or these Standing Orders shall be received and put to the meeting by the Chairperson. The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
- 8.5 The Chairperson may call the notices of motion in the order in which they appear on the agenda, and where no objection is taken to a motion being taken as a formal motion, the Chairperson may put the motion to the vote without discussion.

## 9. Absence of Mover of Motion

9.1 Where a Councillor who has given notice of a motion is absent from the meeting of Council at which the motion is to be considered, the motion may be:

- a) moved by another Councillor at the meeting; or
- b) deferred to the next meeting.

## 10. Motion to be Seconded

10.1 A motion or an amendment to a motion shall not be debated at a meeting of Council unless or until the motion or the amendment is seconded, with the exception of Procedural Motions.

## 11. Amendment of Motion

11.1 An amendment to a motion shall be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.

11.2 Not more than one motion or one proposed amendment to a motion may be put before a meeting of Council at any one time.

11.3 Where an amendment to a motion is before a meeting of Council, no other amendment to the motion shall be considered until after the first amendment has been put.

11.4 Where a motion is amended by another motion, the original motion shall not be put as a subsequent motion to amend that other motion.

## 12. Speaking to Motions and Amendments

12.1 Any Councillor seeking to speak to a motion or an amendment to a motion must stand to speak, unless physically unable to do so.

12.2 The mover of a motion or amendment shall read it and shall state that it is so moved but shall not speak to it until it is seconded, subject to clause 12.3 of the Standing Orders.

12.3 A Councillor may request the Chair for further information before or after the motion or amendment is seconded.

12.4 A motion or amendment may be withdrawn by the mover thereof with the consent of Council, which shall be signified without debate, and a Councillor shall not speak upon such motion or amendment thereof after the mover has been granted permission by Council for its withdrawal.

12.5 The Chairperson will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on any other Councillor who wishes to speak against the motion and then alternatively for and against the motion as available, until all Councillors who wish to speak have had the opportunity.

- 12.6 The mover of a motion or amendment shall have the right to reply. Each Councillor shall speak no more than once to the same motion or same amendment except as a right of reply.
- 12.7 Each speaker shall be restricted to not more than five (5) minutes unless the Chair in his discretion rules otherwise.
- 12.8 Where two or more Councillors rise to speak at the same time, the Chair shall determine who is entitled to priority.
- 12.9 In accordance with Section 273 of the Local Government Regulation 2012, if a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an advisor of the Council, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

### 13. Method of Taking Vote

- 13.1 The Chairperson will call for all Councillors in favour of the motion to indicate their support. The Chairperson will then call for all Councillors against the motion to indicate their objection. A Councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and of those voting in the negative. The Chairperson shall declare the result of a vote or a division as soon as it has been determined.
- 13.2 Councillors have the right to request that their names and how they voted be recorded in the minutes if they so request, for voting other than by Division.
- 13.3 Except upon a motion to rescind or alter it, the resolution shall not be discussed after the vote has been declared.
- 13.4 If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation.

### 14. Rescinding or Amending Resolutions

- 14.1 A resolution of Council may not be amended or repealed unless notice of motion is given in accordance with the requirements of the Local Government Act 2009 or the Local Government Regulation 2012.
- 14.2 A resolution of Council may not be amended or rescinded within three months after the date of passing of the resolution unless notice of motion is given in accordance with the requirements of these Standing Orders.
- 14.3 Councillors present at the meeting at which a motion to rescind or amend a resolution is put, may defer consideration of that motion. Such deferral shall not be longer than three (3) months.
- 14.4 A resolution of a local government may be rescinded or amended only if written notice of intention to propose the repeal or amendment is given to each councillor at least 5 working days before the meeting at which the proposal is made.

## 15. Procedural Motions

- 15.1 A Councillor at a meeting of Council may, during the debate of a matter at the meeting, move, as a procedural motion, without the need of a seconder the following motions:
- that the question/motion be now put
  - that the motion and amendment now before the meeting be adjourned
  - that the meeting proceed to the next item of business
  - that the question lie on the table
  - a point of order
  - a motion of dissent against a point of order
  - that this report/document be tabled
  - to suspend the rule require that
  - that the Council be resolved into a committee of the whole
  - that the meeting stand adjourned
- 15.2 A procedural motion, that the question be put, may be moved when no other Councillor at the meeting wishes to speak to the motion or amendment before the meeting. Where such a procedural motion is carried, the Chair shall immediately put the question to the motion or amendment to that motion under consideration. Where such a procedural motion is lost, debate on the motion or amendment to that motion shall continue.
- 15.3 The procedural motion, that the motion and amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned. A procedural motion shall not adjourn debate on a matter the subject of a motion for a period more than two months after the date of that procedural motion. Where no date or time is specified:
- a further motion may be moved to specify such a time or date; or
  - the matter about which the debate is to be adjourned, shall be included in the business paper for the next meeting.
- 15.4 Where a procedural motion, that the meeting proceed to the next item is carried, debate on the matter subject of the motion shall cease and may be considered again by the Council on the giving of notice in accordance with the Standing Orders.
- 15.5 A procedural motion, that the question lie on the table, shall only be moved where the Chair or a Councillor requires additional information on the matter before the meeting (or the result of some other action of Council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the Council shall proceed with the next matter on the business paper. The motion, that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.

15.6 Any Councillor may ask the Chair to decide on a 'point of order' where it is believed that another Councillor has:

- a) failed to comply with proper procedures,
- b) is in contravention of the Local Laws or Local Government Act, or
- c) is beyond the jurisdiction power of Council.

Points of order cannot be used as a means of contradicting a statement made by the Councillor speaking. Where a 'point of order' is moved, consideration of the matter to which the motion was moved shall be suspended subject to clause 12.2 of Standing Orders. The Chair shall determine whether the point of order is upheld.

Upon the question of order suddenly arising during the process of a debate, a Councillor may rise to a point of order, and thereupon the Councillor against whom the point of order is raised, shall immediately be seated and so shall the Councillor who rose to order when the point of order was submitted. Notwithstanding anything contained in those standing orders to the contrary, all questions or order at any time arising shall, until decided, suspend the consideration and decision of every other question.

- 15.7 A Councillor may move 'a motion of dissent' in relation to a ruling of the Chair on a point of order. Where such a motion is moved, further consideration of any matter shall be suspended until after a ruling is made. Where a motion of dissent is carried, the matter to which the ruling of the Chair was made shall proceed as though that ruling had not been made. Where as a result of that ruling the matter was discharged as out of order, it shall be restored to the business paper and be dealt with in the normal course of business.
- 15.8 The motion, 'that this report/document be tabled', may be used by a Councillor to introduce a report or other document to the meeting, only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
- 15.9 A procedural motion, "to suspend the rule requiring that ...", may be made by any Councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule shall specify the duration of such a suspension.
- 15.10 Where a procedural motion, that the Council be resolved into Committee of the whole, is passed, the Council shall immediately go into Committee. Consideration of the matter which was before the Council at the time of that procedural motion shall continue in Committee and shall not be considered further by the Council except on the report of the Committee of the whole. Any time during the sitting of the Committee of the whole the Chair may request any persons improperly present to be withdrawn immediately.

- 15.11 A procedural motion, that the meeting stands adjourned, may be moved by a Councillor at the conclusion of debate on any matter on the business paper or at conclusion of a Councillor's time for speaking to the matter, and shall be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting the Council shall continue with the business before the meeting at the point where it was discontinued on the adjournment. Where such a procedural motion is lost, the Chair shall not accept a similar motion until the expiration of 30 minutes after the time the motion was lost.

## Part 3: Conduct During Meetings

- 16.1 Councillors will conduct themselves in accordance with the principles of the Local Government Act 2009 and the standards of behaviour set out in the Code of Conduct. The Chairperson may observe or be made aware of instances of possible unsuitable meeting conduct.
- 16.2 After a meeting of Council has been formally constituted and the business commenced, a Councillor shall not enter or leave from such a meeting without first notifying the Chair.
- 16.3 Councillors shall speak of each other during the Council meeting by their respective titles, "Mayor" or "Councillors", and in speaking of or addressing officers Councillors shall address them by their respective official or departmental title, followed by their name, and shall confine their remarks to the matter then under consideration.
- 16.4 No Councillor who is speaking shall be interrupted except upon a point of order being raised either by the Chair or by a Councillor.
- 16.5 When the Chairperson speaks during the process of a debate, the Councillor then speaking or offering to speak shall immediately cease speaking, and each Councillor present shall preserve strict silence so that the Chairperson may be heard without interruption.

## Part 4: Questions

### 17. Questions

- 17.1 A Councillor may at a Council meeting ask a question for reply by another Councillor or an officer regarding any matter under consideration at the meeting. A question shall be asked categorically and without argument and no discussion shall be permitted at the meeting of Council in relation to a reply or a refusal to reply to the question. A Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next meeting.
- 17.2 A Councillor who asks a question at a meeting, whether or not upon notice, shall be deemed not to have spoken to the debate of the motion to which the question relates.
- 17.3 The Chair may disallow a question which he considers is inconsistent with good order: Provided that a Councillor may move a motion that the Chair's ruling be disagreed with, and if such motion be carried the Chair shall allow such question.

## Part 5: Maintenance of Good Order

### 18. Disorder

- 18.1 The Chairperson may adjourn the meeting of Council, where disorder arises at a meeting other than by a Councillor. On resumption of the meeting, the Chairperson shall move a motion, which shall be put without debate, to determine whether the meeting shall proceed. Where such a motion is lost, the Chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

### 19. Business of objectionable nature

- 19.1 If at a meeting of Council the Chair or a Councillor considers that a matter or motion before a meeting is of an objectionable nature or outside the powers of Council, the Chair may on his own motion or that of another Councillor, declare on a point of order that the matter not be considered further.

## Part 6: Attendance and Non-Attendance

### 20. Attendance of public and media at meetings

- 20.1 An area shall be made available at the place where any meeting of Council is to take place for members of the public to attend the meeting and as many members of the public as reasonably can be accommodated in that area shall be permitted to attend the meeting.
- 20.2 When the Council is sitting in the Committee of the whole, the public and representatives of the media shall be excluded.
- 20.3 When the Council is sitting in Closed Session, the public and representatives of the media shall be excluded.
- 20.4 The resolution that Council proceed into Closed Session must specify the nature of the matters to be considered and these matters must be in accordance with Section 275 Local Government Regulation 2012. The Chairperson may direct any persons improperly present to withdraw immediately. Council must not make a resolution (other than a procedural resolution) in a closed session. Council must resolve to move out of closed session so that a resolution can be passed on the matters considered in Closed Session.

### 21 Public participation at meetings

- 21.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the Chairperson.
- 21.2 In each Meeting, time shall be set aside to permit members of the public to address the Council on matters of public interest related to local government. Questions from the Public Gallery will be taken on notice and may or may not be responded to at the Meeting and must be received in writing by the Chief Executive Officer no later than 12 noon two (2) days prior to the Council

Meeting. The time allotted shall not exceed fifteen (15) minutes and no more than three (3) speakers shall be permitted to speak at any one (1) meeting. The right of any individual to address the Council during this period shall be at the absolute discretion of Council.

21.3 For any matter arising from such an address, Council may take the following actions:

- refer the matter to a committee
- deal with the matter immediately
- place the matter on notice for discussion at a future meeting
- note the matter and take no further action.

21.4 If any address or comment is irrelevant, offensive, or unduly long, the Chair may require the person to cease making the submission or comment.

21.5 During a debate on a motion, the Chair may invite submission, comments or questions from members of the public.

21.6 Any person addressing the Council shall stand, act and speak with decorum and frame any remarks in respectful and courteous language.

21.7 Any person who is considered by the Council or the Mayor to be unsuitably dressed, may be directed by the Mayor or Chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

## Part 7: Committees

### 22 Reports by Committees

22.1 All Committee reports shall be submitted to the Council under the signature of the CEO or delegate of the CEO.

22.2 If in a report of a Committee distinct recommendations are made, the decision of Council may be taken separately on each recommendation.

## Part 8: Processes

### 23 Process for dealing with unsuitable meeting conduct by a Councillor in a meeting

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

23.1 The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.

- 23.2 If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson must consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature, refer to clause 23.7 for the steps to be taken.
- 23.3 If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:
- 23.3.1 Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
  - 23.3.2 Apologising for their conduct
  - 23.3.3 Withdrawing their comments.
- 23.4 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 23.5 If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request may result in an order being issued.
- 23.6 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 23.7 If the Councillor still continues to fail to comply with the Chairperson's request for remedial actions, the Chairperson may make one or more of the orders below:
- 23.7.1 an order reprimanding the Councillor for the conduct
  - 23.7.2 an order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting
- 23.8 If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting by an appropriate officer. The meeting must be adjourned whilst the Councillor is being removed
- 23.9 Following the completion of the meeting, the Chairperson must ensure:
- 23.9.1 details of any order issued is recorded in the minutes of the meeting
  - 23.9.2 if it is the third (3rd) or more order within a 12-month period made against a Councillor or the Councillor has refused to leave following an order issued to leave the meeting, these matters are to be dealt with at the next meeting of the Local Government and treated as inappropriate conduct pursuant to the LGA
  - 23.9.3 the Local Government's Chief Executive Officer is advised to ensure details of any order made must be updated in the Local Governments Councillor Conduct Register pursuant to the LGA.

Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 23.1, 23.7 and 23.8 above.

#### **24 Meeting process for dealing with suspected Inappropriate Conduct which has been referred to a Local Government**

Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor or under paragraph 23.9.2 of this document of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

After the completion of the investigation, the Local Government must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting, unless it has delegated responsibility for this decision under section 257 of the LGA.

When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, the Local Government must:

- 24.1 Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the Local Government Regulation 2012 (the LGR).
- 24.2 When deliberating on the issue the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public. Should the complainant be a Councillor, that Councillor must inform the meeting of a personal interest and follow the conflict of interest procedures in Section 26.
- 24.3 The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.
- 24.4 If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:
  - 24.4.1 an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
  - 24.4.2 an order reprimanding the Councillor for the conduct
  - 24.4.3 an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
  - 24.4.4 an order that the Councillor be excluded from a stated Local Government meeting
  - 24.4.5 an order that the Councillor is removed, or must resign, from a position representing the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee
  - 24.4.6 an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
  - 24.4.7 an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.

- 24.5 When making an order, the Local Government can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that the Local Government is reasonably satisfied is true.
- 24.6 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.
- 24.7 The Local Government must ensure the meeting minutes reflect the resolution made.

## **25 Material Personal Interest**

Councillors are ultimately responsible for informing of a material personal interest on matters to be discussed at a Council or committee meeting. When dealing with a material personal interest, Councillors must abide by the following procedures:

- 25.1 A Councillor with a material personal interest must inform the meeting of the Local Government of their material personal interest and set out the nature of the interest, including:
  - 25.1.1 The name of the person or other entity who stands to gain a benefit, or suffer a loss, depending on the outcome of the consideration of the matter at the meeting
  - 25.1.2 How a person or other entity stands to gain the benefit or suffer the loss
  - 25.1.3 If the person or other entity who stands to gain the benefit or suffer the loss is not the Councillor – the nature of the Councillor’s relationship to the person or entity.
- 25.2 The Councillor must then leave the place of the meeting and stay away while the matter is being discussed and voted on unless the subject Councillor has Ministerial approval to participate in the matter. The Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
- 25.3 Once the Councillor has left the area where the meeting is being conducted, the Local Government can continue discussing and deciding on the matter at hand.
- 25.4 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a material personal interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 25.5 The Chairperson then should ask the Councillor with the suspected material personal interest whether they do in fact have a material personal interest. If that is the case, the Councillor must follow the above procedures from item 25.1.

- 25.6 In the event the majority of Councillors inform a meeting of a material personal interest regarding a matter:
- 26.6.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or
  - 26.6.2 if the matter cannot be delegated under section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
- 25.7 Where a Councillor informs a meeting of a material personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:
- 25.7.1 The name of the Councillor who has a material personal interest in the matter
  - 25.7.2 The material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest
  - 25.7.3 Whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

## 26 Conflict of Interest

Councillors are ultimately responsible for informing of any personal interest where they have a real or perceived conflict of interest on matters to be discussed at Council or committee meetings (other than ordinary business matters). When dealing with a conflict of interest, Councillors must abide by the following procedures:

- 26.1 A Councillor with a real or perceived conflict of interest must inform the meeting of the Local Government of their personal interest and set out the nature of the interest, including:
- 26.1.1 The nature of the interest
  - 26.1.2 If the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person:
    - 26.1.2.i the name of the other person
    - 26.1.2.ii the nature of the relationship or value and date of receipt of the gift or benefit received, and
    - 26.1.2.iii the nature of the other person's interests in the matter.
- 26.2 The subject Councillor may themselves elect to leave the meeting while the matter is being discussed and voted on due to a perceived conflict of interest or conflict of interest. If the Councillor does not leave the meeting, they may advise the other Councillors why they believe they are able to act in the public interest while remaining in the meeting. This could include prior advice from the Integrity Commissioner on the personal interest.
- 26.3 The other Councillors entitled to vote at the meeting must then decide whether the subject Councillor has a conflict of interest (including a perceived conflict of interest) in the matter due to their personal interest. A Councillor who has declared a personal interest in relation to a matter, must not vote under section 175E(4) as to whether another Councillor may stay in the meeting.

- 26.4 If the other Councillors decide there is no conflict of interest or a perceived conflict of interest, the subject Councillor may remain in the meeting and the meeting may continue.
- 26.5 If the other Councillors decide there is a conflict of interest they must then decide whether the subject Councillor must leave the meeting while the matter is being discussed and voted on or can participate in the meeting in relation to the matter including voting on the matter. If the Councillor must leave the place of the meeting the Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way
- 26.6 When deciding whether a Councillor may stay in a meeting and vote following the decision of a conflict of interest, the other Councillors must consider significant variables including, but not limited to:
- 26.6.1 The size or significance of the benefit the subject Councillor stands to receive or benefit
  - 26.6.2 The benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision
  - 26.6.3 The closeness of any relationship the subject Councillor may have with a given person or group.
- 26.7 In making the decision under 26.6, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
- 26.8 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a real or perceived conflict of interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 26.9 The Chairperson then should ask the Councillor with the suspected conflict of interest to inform the meeting of any personal interest they have in the matter and follow the above procedures from item 26.1.
- 26.10 In the event the majority of Councillors inform of a personal interest in a matter:
- 26.10.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA, or
  - 26.10.2 if the matter cannot be delegated under the section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.

26.11 Where a Councillor informs a meeting of a personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:

- 26.11.1 The name of the Councillor who has declared the conflict of interest
- 26.11.2 The nature of the personal interest, as described by the Councillor
- 26.11.3 The decisions made under 26.3 and 26.5 above
- 26.11.4 Whether the Councillor participated in the meeting under an approval by the Minister
- 26.11.5 If the Councillor voted on the matter, how they voted
- 26.11.6 How the majority of Councillors voted on the matter

## 27 Closed Meetings

Local Government and standing committees may resolve that a meeting be closed to the public if its Councillors or members consider it necessary to discuss any of the following matters:

- Appointment, dismissal or discipline of employees
- Industrial matters affecting employees
- Local Government's budget
- Rating concessions or contracts proposed to be made by the Local Government or starting or defending legal proceedings involving the Local Government
- Any action to be taken by the Local Government under the Planning Act 2016 (PA), including applications made to it under the PA
- Business for which a public discussion would be likely to prejudice the interests of the Local Government or someone else or enable a person to gain a financial advantage.

A Local Government or committee must not make a resolution (other than procedural) in a closed session meeting. If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation.

- 27.1 To take an issue into a closed session, the Local Government must first pass a resolution to do so.
- 27.2 In the interests of accountability and transparency, the Local Government must specify the nature of the matter to be discussed and the reasoning of the Councillors for going into closed session.
- 27.3 If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session and name the topic to be discussed and a brief explanation of why it is deemed necessary to take the issue into closed session.
- 27.4 The minutes of a Local Government must detail the matter discussed and reasoning for discussing the matter in closed session. The Local Government must also ensure that it complies with the statutory obligations associated with recording of passed resolutions.

## Definitions

- **Act** shall mean the *Local Government Act 2009*.
- **Advisor** shall be defined as per section 273(2) of the *Local Government Regulation 2012*, namely a person who is an employee of the local government or is otherwise engaged to provide services to the local government and whose duties include giving a recommendation or advice.
- **CEO** shall mean a person who holds an appointment as Chief Executive Officer of the Whitsunday Regional Council under section 194 of the *Local Government Act 2009*. This includes a person acting in this position.
- **Council** shall mean the Whitsunday Regional Council.
- **Council meeting** shall mean an Ordinary or Special Meeting of Council.
- **Meeting of Council** shall mean an Ordinary or Special Meeting of Council.
- **Meeting** shall mean an Ordinary or Special Meeting of Council.
- **Minister** shall mean the Minister responsible for Local Government in Queensland.
- **Ordinary business matter** shall have the same definition as defined in Schedule 4 of the *Local Government Act 2009*.
- **Quorum** is defined as per section 259 of the *Local Government Regulation 2012*, namely a majority of Councillors. However if the number of Councillors is an even number, one-half of the number is a quorum.
- **Resolution** shall mean the formal adoption by Council of a position or an action.
- **Teleconferencing** is defined as per section (276(1) of the *Local Government Regulation 2012*, namely the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in discussions as they happen.

## Relating Documents

Code of Conduct for Councillors  
Investigation Policy

## Effective Date

23 April 2019

## Review Date

April 2020