



Meeting Notice and Agenda

for the

Special Post Election Meeting of the Council

to be held in the

Cultural Centre Hall, 118 Victoria Street, St George

on

Tuesday 14th April 2020

Commencing at 9.00am

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ORDER OF PROCEEDINGS

1. Opening
2. Welcome by Balonne Shire Council Chief Executive Officer
3. Attendance

Expected attendance of this meeting is as follows:

Councillors		Staff/Consultants	
Cr SC O'Toole (Mayor)	-Full Meeting	Mr Matthew Magin (Chief Executive Officer)	-Whole Meeting
Cr RD Avery	-Full Meeting	Mrs Michelle Clarke (Director Finance & Corporate Services)	-Whole Meeting
Cr RG Fuhrmeister	-Full Meeting	Mr Andrew Boardman (Director Infrastructure Services)	-As required for IFS
Cr R Lomman	-Full Meeting	Dr Digby Whyte (Director Environment & Regulatory Services)	-As required for ERS
Cr SS Scriven	-Full Meeting		
Cr ID Todd	-Full Meeting		
Cr WN Winks	-Full Meeting		

4. Meeting Business by Corporate Function

Office of the CEO

Finance & Corporate Services

Stay safe, stay strong, stay apart. We will get through this together

MEETING BUSINESS BY CORPORATE FUNCTION

(OCEO) OFFICE OF THE CEO

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OFFICER REPORT

TO: Council

SUBJECT: Declaration of Office - Mayor and Councillors

DATE: 06.04.20

AGENDA REF: OCEO1

AUTHOR: Kimi Waterson - Administration Officer - Governance

Sub-Heading

Declaration of Office - Mayor and Councillors

Executive Summary

The purpose of this report is for the new Mayor and Councillors to make a declaration of office before acting in their office as an elected member of the Balonne Shire Council.

Background

The Chief Executive Officer will chair the post-election meeting until the Mayor and Councillors complete their declaration of office.

Under section 169(2) of the *Local Government Act 2009* a person elected as a Councillor must not act in the office until the person makes the declaration of office.

The Declaration of Office is prescribed in S254 of the Local Government Regulations 2012 as follows:

I, Councillor Samantha O'Toole (Mayor)

Councillor Rodney Avery

Councillor Robyn Fuhrmeister

Councillor Richard Lomman

Councillor Scott Scriven

Councillor Ian Todd

Councillor William Winks

having been elected/appointed as a councillor of the Balonne Shire Council, declare that I will faithfully and impartially fulfil the duties of the office, in accordance with the local government principles and code of conduct under the Local Government Act 2009, to the best of my judgment and ability.

Section 12 is outlined below of the Councillor's responsibilities. And under Section 4 are the Local government principles that underpin the Act, of which the Mayor and Councillors are required to uphold:

- (1) To ensure the system of local government is accountable, effective, efficient and sustainable, Parliament requires—

- (a) anyone who is performing a responsibility under this Act to do so in accordance with the local government principles; and
 - (b) any action that is taken under this Act to be taken in a way that—
 - (i) is consistent with the local government principles; and
 - (ii) provides results that are consistent with the local government principles, in as far as the results are within the control of the person who is taking the action.
- (2) The local government principles are—
- (a) transparent and effective processes, and decision-making in the public interest; and
 - (b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
 - (c) democratic representation, social inclusion and meaningful community engagement; and
 - (d) good governance of, and by, local government; and
 - (e) ethical and legal behaviour of councillors and local government employees.

The Code of Conduct for Councillors in Queensland (September 2018) is attached for Councillor's further information.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of accountability and compliance

Consultation (internal/external)

Nil

Legal Implications

Section 169 of the Local Government Act states the obligations of councillors before acting in office:

- (1) A councillor must not act in office until the councillor makes the declaration of office.
- (2) The declaration of office is a declaration prescribed under a regulation.
- (3) The chief executive officer is authorised to take the declaration of office.
- (4) The chief executive officer must keep a record of the taking of the declaration of office.
- (5) A person ceases to be a councillor if the person does not comply with subsection (1) within—
 - (a) 30 days after being appointed or elected; or
 - (b) a longer period allowed by the Minister.

Section 12 of the Local Government Act sets out the responsibilities of councillors:

- (1) A councillor must represent the current and future interests of the residents of the local government area.
- (2) All councillors of a local government have the same responsibilities, but the mayor has some extra responsibilities.
- (3) All councillors have the following responsibilities—
 - (a) ensuring the local government—
 - (i) discharges its responsibilities under this Act; and
 - (ii) achieves its corporate plan; and
 - (iii) complies with all laws that apply to local governments;
 - (b) providing high quality leadership to the local government and the community;
 - (c) participating in council meetings, policy development, and decision-making, for the benefit of the local government area;

- (d) being accountable to the community for the local government's performance.
- (4) The mayor has the following extra responsibilities—
 - (a) leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings;
 - (b) leading, managing, and providing strategic direction to, the chief executive officer in order to achieve the high quality administration of the local government;
 - (c) directing the chief executive officer in accordance with a resolution, or a document adopted by resolution, of the local government;
 - (d) conducting a performance appraisal of the chief executive officer, at least annually, in the way that is decided by the local government (including as a member of a committee, for example);
 - (e) ensuring that the local government promptly provides the Minister with the information about the local government area, or the local government, that is requested by the Minister;
 - (f) being a member of each standing committee of the local government;
 - (g) representing the local government at ceremonial or civic functions.
- (5) A councillor who is not the mayor may perform the mayor's extra responsibilities only if the mayor delegates the responsibility to the councillor.
- (6) When performing a responsibility, a councillor must serve the overall public interest of the whole local government area.

Risk Implications

Reputation - Inadequate engagement and assessment of the impact of external and internal stakeholders on our community, viability and productive capacity.

Policy Implications

Councillor Code of Conduct

Financial and Resource Implications

Councillor remuneration is set by the Local Government Remuneration Commission.

Remuneration for 2019/20 was set as follows:

Mayor	\$106,100
Deputy Mayor	\$61,211
Councillor	\$53,049

Remuneration from 1 July 2020 is set as follows for Category 1 councils:

Mayor	\$108,222
Deputy Mayor	\$62,435
Councillor	\$54,110

Options or Alternatives

Nil

Attachments

1. Code of conduct for Councillors in Queensland December 2018 [↓](#)

Recommendation/s

That Council resolves that:

1. the principles underpinning the *Local Government Act 2009* and the roles and responsibilities of the Mayor and Councillors have been noted; and
2. the Code of Conduct for Councillors in Queensland has been noted.

Michelle Clarke

Director Finance & Corporate Services



Code of Conduct for Councillors in Queensland

Approved on 3 December 2018

Working towards White Ribbon accreditation





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An electronic copy of this report is available on the Department of Local Government, Racing and Multicultural Affairs' website at www.dlgma.qld.gov.au.



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Purpose of the Code of Conduct

The Code of Conduct sets out the principles and standards of behaviour expected of Councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, Councillors will increase public confidence in Local Government and Council decisions.

Background

Under section 150D of the *Local Government Act 2009* (the Act), the Minister for Local Government must make a Code of Conduct stating the standards of behaviour for Councillors in the performance of their responsibilities as Councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

Before assuming public office, Councillors must understand and commit to complying with the Local Government principles and obligations of Councillors in accordance with section 169 of the Act, as well as the standards of behaviour set out in this Code of Conduct. All Councillors are required to make a declaration of office under section 169 of the Act. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.



The Local Government Principles and Values

The Act is founded on five Local Government principles with which Councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision-making in the public interest
2. Sustainable development and management of assets and infrastructure, and delivery of effective services
3. Democratic representation, social inclusion and meaningful community engagement
4. Good governance of, and by, Local Government
5. Ethical and legal behaviour of Councillors and Local Government employees.

This Code of Conduct provides a set of values that describe the types of conduct Councillors should demonstrate under each principle. These values are listed below:

1. In making decisions in the public interest, Councillors will:
 - make decisions in open council meetings
 - properly inform relevant personnel of all relevant information
 - make decisions in accordance with law and policy
 - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, Councillors will:
 - manage Council resources effectively, efficiently and economically
 - foster a culture of excellence in service delivery.
3. In representing and meaningfully engaging with the community, Councillors will:
 - show respect to all persons
 - clearly and accurately explain Council's decisions
 - accept and value differences of opinion.
4. In exercising good governance, Councillors are committed to:
 - the development of open and transparent processes and procedures
 - keeping clear, concise and accessible records of decisions.
5. To meet the community's expectations for high level leadership, Councillors will:
 - be committed to the highest ethical standards
 - uphold the system of Local Government and relevant laws applicable.

This Code of Conduct also sets out standards of behaviour aimed at helping Councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which Councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.



Standards of behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors (excluding Councillors who are governed under the *City of Brisbane Act 2010*) in Queensland. The behavioural standards relate to, and are consistent with, the Local Government principles and their associated values.

The standards of behaviour are summarised as the three R's, being:

1. **RESPONSIBILITIES**
2. **RESPECT**
3. **REPUTATION**

Each standard of behaviour includes, but is not limited to, several examples to guide Councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

1. Carry out **RESPONSIBILITIES** conscientiously and in the best interests of the Council and the community

For example, Councillors will, at a minimum:

- 1.1 Attend and participate meaningfully in all Council meetings, briefings, relevant workshops and training opportunities to assist Councillors in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- 1.2 Respect and comply with all policies, procedures and resolutions of Council
- 1.3 Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business
- 1.4 Report any suspected wrongdoing to the appropriate entity in a timely manner
- 1.5 Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)
- 1.6 Cooperate with any investigation being undertaken by the Local Government or other entity.

2. Treat people in a reasonable, just, **RESPECTFUL** and non-discriminatory way

For example, Councillors will, at a minimum:

- 2.1 Show respect for fellow Councillors, Council employees and members of the public
- 2.2 Not bully, harass, intimidate or act in a way that the public would reasonably perceive a Councillor's behavior to be derogatory towards other Councillors, Council employees and members of the public
- 2.3 Be respectful of other people's rights, views and opinions.



3. Ensure conduct does not reflect adversely on the **REPUTATION** of Council

For example, Councillors will, at a minimum:

- 3.1 When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council
- 3.2 When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- 3.3 Avoid making unnecessary or irrelevant comments or accusations about Councillors or Council employees in order to undermine them or their position
- 3.4 Ensure behaviour and presentation is appropriate to maintain the dignity of the office of the Councillor.

Consequences of failing to comply with the Code of Conduct

Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this Code of Conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the Act.

A complaint about the conduct of a Councillor must be submitted to the Independent Assessor who will assess the complaint and determine the category of the allegation. In order of most to least serious, the categories of complaint are **corrupt conduct**, **misconduct**, **inappropriate conduct** and then **unsuitable meeting conduct**.

Unsuitable meeting conduct

Under section 150H of the Act, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as **unsuitable meeting conduct**.

Unsuitable meeting conduct by a Councillor is dealt by the Chairperson of the meeting. It is important that the Chairperson deal with matters of unsuitable meeting conduct locally, and as efficiently and effectively as possible so that Council can continue with their business of making effective decisions in the public interest.

Note: Chairpersons of meetings are carrying out a statutory responsibility under the Act to manage and lead the meeting. As such, where a Chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the Chairperson of the meeting and may be dealt with as misconduct (see below).



Inappropriate conduct

Under section 150K of the Act, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct (i.e. occurs outside of a meeting of Council) is dealt with as *inappropriate conduct*.

The conduct of a Councillor is also inappropriate conduct if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting, or is conduct at Council meetings that leads to orders for the Councillor's unsuitable meeting conduct being made on three occasions within a period of one year.

The Independent Assessor is responsible for assessing allegations of suspected inappropriate conduct. If the Independent Assessor chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

Misconduct

Councillors are required to comply with all laws that apply to Local Governments. This includes refraining from engaging in *misconduct*.

The Independent Assessor is responsible for assessing and investigating instances of suspected misconduct. The Independent Assessor may then refer the matter to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions or exercise of powers, or
- is, or involves:
 - a breach of trust placed in the Councillor
 - misuse of information or material acquired by the Councillor, whether the misuse is for the benefit of the Councillor or for the benefit or to the detriment of another person
 - a Councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer and senior executive employees)
 - a release of confidential information outside of the Council
 - failure by a Councillor to report a suspected material personal interest, conflict of interest or perceived conflict of interest of another Councillor, or
- is a failure by the Councillor to comply with:
 - an order made by the Council or Tribunal
 - any acceptable request guidelines of the Council made under section 170A of the Act
 - the reimbursement of expenses policy of the Council.

The conduct of a Councillor is also misconduct if the conduct leads to the Councillor being disciplined for inappropriate conduct on three occasions within a period of one year, or is conduct that is identified in an order of Council that will be dealt with as misconduct if the Councillor engages in the conduct again.



Corrupt conduct

Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001* and must be referred to the Crime and Corruption Commission. For a Councillor, corrupt conduct involves behaviour that:

- adversely affects or could adversely affect the performance of the Councillors responsibilities, and
- involves the performance of the Councillors responsibilities in a way that:
 - is not honest or impartial, or
 - involves a breach of the trust placed in the Councillor, or
 - involves the misuse of information acquired by the Councillor, and
- is engaged in for the purpose of providing a benefit or a detriment to a person, and
- if proven would be a criminal offence.

More information

The Department's website provides further information and resources for Councillors.

The Department also provides and facilitates training for Councillors and Council employees to assist them to develop the knowledge, skills and understanding necessary to undertake their roles and responsibilities effectively and in the best interests of their communities.

For more information, please contact your regional office within Local Government and Regional Services in the Department on:

Telephone: 13 QGOV (13 74 68)

Post: PO Box 15009, City East, Queensland 4002

Website: www.dlgrma.qld.gov.au

Department of Local Government, Racing and Multicultural Affairs
Level 12, 1 William Street, Brisbane, Queensland 4000
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OFFICER REPORT

TO: Council

SUBJECT: Appointment of Deputy Mayor

DATE: 02.04.20

AGENDA REF: OCEO2

AUTHOR: Kimi Waterson - Administration Officer - Governance

Sub-Heading

Appointment of Deputy Mayor

Executive Summary

A local government must, by resolution, appoint a Deputy Mayor from its councillors (other than the mayor) at the post-election meeting. The Deputy Mayor acts for the Mayor during the absence or temporary incapacity of the Mayor, or a vacancy in the office of Mayor.

Background

The Council must resolve to appoint a Deputy Mayor. This can be by moving a motion to appoint to be put to the vote. The Deputy Mayor acts for the Mayor during the absence or temporary incapacity of the Mayor, or a vacancy in the office of Mayor. Should both the Mayor and Deputy Mayor be absent or prevented from performing the role, Council may resolve to appoint an acting mayor from its councillors.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of accountability and compliance

Consultation (internal/external)

Nil

Legal Implications

Local Government Act 2009 Section 175 (2)

The local government must, by resolution, appoint a deputy mayor from its councillors (other than the mayor) –

(a) at that meeting; and

(b) at the first meeting after the office of the councillor who is the deputy mayor becomes vacant.

Local Government Act 2009 Section 165 (1)

The deputy mayor acts for the mayor during –

(a) the absence or temporary incapacity of the mayor; or

(b) a vacancy in the office of mayor.

Risk Implications

Nil.

Policy Implications

Councillor Code of Conduct
Code of Meeting Practice

Financial and Resource Implications

Nil

Options or Alternatives

Nil

Attachments

Nil

Recommendation/s

That Council resolves to:

- (a) appoint a Councillor as Deputy Mayor pursuant to Section 175(2) of the *Local Government Act 2009*; and
- (b) note that a Deputy Mayor will act for the Mayor during the absence or temporary incapacity of the Mayor; or a vacancy in the Office of Mayor.

Michelle Clarke

Director Finance & Corporate Services

OFFICER REPORT

TO: Council

SUBJECT: Future Council Meeting Dates and Time

DATE: 06.04.20

AGENDA REF: OCEO3

AUTHOR: Kimi Waterson - Administration Officer - Governance

Sub-Heading

Future Council Meeting Dates and Time

Executive Summary

In accordance with the Local Government Regulation 2012, Section 256(1)(a), a local government must, at the post-election meeting, consider the dates and time for holding future Council meetings.

Background

The *Local Government Regulation 2012* states in section 256(1) that a local government must consider the following matters at its Statutory Post Election Meeting:

- (a) the day and time for holding other meetings

In accordance with Section 257 of the *Local Government Regulation 2012*:

- (1) A local government must meet at least once in each month.
- (2) However, the Minister may, after written application by a local government, vary the requirement under subsection (1) for the local government.
- (3) All meetings of a local government are to be held—
 - (a) at 1 of the local government's public offices; or
 - (b) for a particular meeting—at another place fixed by the local government, by resolution, for the meeting"

Council has previously resolved that its public office will be the Council Chambers at 118 Victoria Street St George and Council Meetings to be held on the third Thursday of each month at 9.00am.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of accountability and compliance

Consultation (internal/external)

Nil

Legal Implications

Local Government Regulations 2012

Risk Implications

Nil.

Policy Implications

Any change to the meeting date or time will amend Council's Code of Meeting Practice.

Financial and Resource Implications

Nil

Options or Alternatives

Council may determine an alternate date and time for its ordinary meetings.

Attachments

Nil

Recommendation/s

That Council resolves that the General Meetings of Council be held in the Council Chambers located at 118 Victoria Street St George, on the third Thursday of each month, commencing at 9.00am.

Michelle Clarke

Director Finance & Corporate Services

OFFICER REPORT

TO: Council

SUBJECT: Code of Meeting Practice

DATE: 06.04.20

AGENDA REF: OCE04

AUTHOR: Kimi Waterson - Administration Officer - Governance

Sub-Heading

Code of Meeting Practice

Executive Summary

The Code of Meeting Practice provides written rules (standing orders) for the orderly conduct of Council and Committee meetings consistent with the relevant requirements of the Local Government Act 2009 and Part 2, Division 1 of the Local Government Regulation 2012.

Background

The Code of Meeting Practice applies to all meetings of the council including meetings of Standing Committees, and all participants in those meetings. The Council has an obligation to act in accordance with the local government principles set out at Section 4 of the *Local Government Act 2009*.

Council should note that the Local Government Act is due to change in the near future and the Department of Local Government Racing and Multicultural Affairs have advised they will be providing an updated Code of Meeting Practice for Council's to consider and adopt.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of accountability and compliance

Consultation (internal/external)

Department of Local Government Racing and Multicultural Affairs

Legal Implications

No legal implication as this simply ensures council is complying with its responsibilities under the Local Government Act and Regulations.

Risk Implications

Nil.

Policy Implications

Councillor Code of Conduct
Code of Meeting Practice

Financial and Resource Implications

Nil

Options or Alternatives

Nil

Attachments

1. Code of Meeting Practice_Adopted 15112018.pdf [↓](#)

Recommendation/s

That Council resolves that the Code of Meeting Practice be noted by the incoming Council for the regulation and the conduct of meetings of the Council and its Standing Committees.

Michelle Clarke

Director Finance & Corporate Services

Code of Meeting Practice

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Code of Meeting Practice

1. LEGISLATION

The Code of Meeting Practice provides written rules (standing orders) for the orderly conduct of Council and Committee meetings consistent with the relevant requirements of the *Local Government Act 2009* and Part 2, Division 1 of the *Local Government Regulation 2012*.

2. PRINCIPLES

The Council has an obligation to act in accordance with the local government principles set out at Section 4 of the *Local Government Act 2009*, namely

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

3. SCOPE

- a) The Code of Meeting Practice applies to all meetings of Balonne Shire Council, including meetings of committees, and all participants in those meetings.
- b) Any provision of the Code 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.
- c) Where at a Council meeting a matter arises which is not provided for in this Code, such matters shall be determined by resolution of Council upon a motion which may be put without notice but otherwise in conformity with this Code.

4. RESPONSIBILITY

- a) The Chairperson who presides at a meeting is responsible for the conduct of the meeting.
- b) The Chief Executive Officer is responsible for ensuring that notices, agendas, minutes and/or committee reports are prepared in accordance with the relevant legislation and the Code of Meeting Practice.
- c) Each person is responsible for their conduct at a Local Government meeting.

Code of Meeting Practice

5. BEFORE COUNCIL MEETINGS

5.1 Frequency of Meetings (s257 LGR)

The Council will meet **once a month** as per section 257 of the Regulation.

5.2 Dates

- a) Council meets at **9.00 am** on the third **Thursday of each month**.
- b) Any change from the date of commencement time of a Council meeting shall be by resolution of the Council or, in emergency circumstances, by the authorisation of the Mayor.
- c) Special Meeting of Council will be held in accordance with clause 5.2 and 5.3.

5.3 Notice of Meetings to Councillors (s258 LGR)

- a) Written notice of each meeting or adjourned meeting of the Council will be given to each Councillor at **least four (4) calendar days** before the day of the meeting unless it is impracticable to give notice.
- b) The written notice shall state the day and time of the meeting and for a special meeting – the object of the meeting.

5.4 Notice for Special Meeting

- a) A special meeting is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.
- b) If the Mayor receives a request in writing signed by at least **two (2) Councillors**, the Mayor must call a special meeting of the Council to be held as soon as practicable but in any event within **fourteen (14) days** after the receipt of the request.
- c) The Mayor or Chief Executive Officer may call a special meeting of the Council to be held as soon as practicable. The Mayor or CEO will notify the Councillors **at least two (2) calendar days** prior to the special meeting being held.

5.5 Public Notice of Meetings (s277 LGR)

- a) Following the post-election meeting Council will publish in local newspapers the days and times of its general meetings.
- b) Council will display in its community contact centres a notice of the days and times when its meetings will be held.
- c) Council will publish any amendment to the timetable of its meetings via council's website.

Code of Meeting Practice

- d) The full public agenda will be published on Council's website at least two days prior to the council meeting.

5.6 Place of Meetings (s257 (3) LGR)

- a) Council meetings will be held at the Balonne Shire Council Administration Centre as outlined in its meeting schedule for the year.
- b) Council may resolve to hold a particular meeting in another location provided public notice is given.

5.7 Post-Election Meetings (s175 (1) LGA)

- a) Council must hold a meeting within **fourteen (14) calendar days** after the conclusion of each quadrennial election.
- b) Council must, by resolution, appoint a Deputy Mayor from its Councillors (other than the Mayor).
- c) The Chief Executive Officer will chair the post-election meeting until the Mayor and Councillors have taken their oath of office.

6. MEETINGS

6.1 Chairperson

- a) The Mayor will preside at any of Council's meetings, unless otherwise specified in a committee's terms of reference.
- b) If the Mayor is absent, the Deputy Mayor will assume the Chair.
- c) If the Deputy Mayor is absent a Councillor may be elected to the chair by the Councillors present at the meeting.
- d) If at the time designated for holding the meeting no Chairperson is present, the first business of the meeting must be the election of a Chairperson to preside at the meeting.

6.2 Duties of the Chairperson

- a) The Chairperson has a duty to preserve order and ensure proceedings are conducted in a proper manner by:
- Determining that the meeting is properly constituted and a quorum is present
 - Informing Councillors as to the business and objectives of the meeting

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- Formulating for discussion and decision any proposed resolution (motion) that has been moved for consideration of the meeting
- Deciding whether proposed resolutions and amendments are in order
- Deciding points of order and other incidental matters that require a decision
- Facilitating an exchange of views and ideas on key issues before the meeting
- Confining discussion to within the scope of the meetings and within reasonable limits of time
- Preserving order at the meeting
- Serving the public interest
- Putting relevant questions to the meeting and conducting a vote (and where authorised, giving a casting vote)
- Declaring the result
- Ensuring a division is taken if properly requested
- Ensuring the record of minutes of the meeting is maintained
- Adjourning the meeting when circumstances justify that course
- Declaring the meeting closed when its business is complete.

6.3 Councillors

- a) All Councillors have a responsibility to participate in council meetings, policy development and decision making, for the benefit of the Local Government area.
- b) After a meeting of the Council has commenced, a Councillor must not enter, leave or withdraw from the meeting without first notifying the Chairperson.
- c) Mobile telephones and audible pagers must be turned off or placed in silent mode in the meeting room.
- d) confine their remarks to matters then under consideration and act with due decorum in order that the meeting is conducted in an efficient and effective manner. (For further details refer to the Councillor Code of Conduct)

7. PROCEDURES FOR MEETINGS

7.1 Order of Business

The order of business must be determined by resolution of Balonne Shire Council from time to time. The order of business may be altered for a particular meeting where the Councillors at the meeting pass a motion. Such a motion may be moved without notice.

The regular order of business for **ordinary meetings** will be:-

Opening Prayer
Attendance
Apologies
Leave of Absence
Confirmation of Minutes
Business Arising

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Declaration of Material Personal Interest and Conflict of Interest
Public Participation - Deputations
Councillor Reports
Officers' Reports
Confidential items
General Business
Items for information only

7.2 Petitions

Any petition presented to a meeting of Council shall:

- a) be in legible writing or typewritten and contain a minimum of ten (10) signatures
- b) 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
- c) have the details of the specific request/matter appear on each page of the petition.

Where a Councillor 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.

Council will respond to the Principal Petitioner in relation to all petitions deemed valid.

7.3 Deputations

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.

The CEO, on receiving an application for a deputation shall notify the Chairperson who shall determine whether the deputation may be heard. The CEO shall inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time shall be arranged for that purpose, and an appropriate time period allowed.

For deputations comprising 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.

If a member of the deputation other than the appointed speakers interjects or attempts to address the Council, the Chairperson may finalise the deputation.

The Chairperson may terminate an address by a person in a deputation at any time where:

- a) the Chairperson 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 or is derogatory towards Councillors or staff members.



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The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions, as appropriate.

7.4 Motions

7.4.1 Motion to be moved

- a) A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.
- b) 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.
- c) Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.
 - i. A motion brought before a meeting of Council in accordance with the Local Government Act 2009 or this Code 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.
 - ii. 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.

7.4.2 Absence of Mover of Motion

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:

- moved by another Councillor at the meeting, or
- deferred to the next meeting.

7.4.3 Motion to be seconded

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.

7.4.4 Amendment of Motion

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.

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

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.



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

7.4.5 Speaking to motions and amendments

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.

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 for or against the motion, until all Councillors who wish to speak have had the opportunity.

A Councillor may make a request to the Chairperson for further information before or after the motion or amendment is seconded.

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.

The mover of a motion or amendment shall have the right to reply.

Where two or more Councillors indicate they may wish to speak at the same time, the Chairperson shall determine who is entitled to priority.

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. (Refer to 9.3 below)

7.5 Procedural motions

7.5.1 Types of procedural motions

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 for a seconder the following motions:

- that the question/motion be now put
- that the motion or 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 the Chairpersons decision
- that this report/document be tabled
- to suspend the rule requiring that (insert requirement)
- that the meeting stand adjourned.



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7.5.2 Motion that the Question be put

A procedural motion, that the question be put, may be moved and where such a procedural motion is carried, the Chairperson shall immediately put the question to the motion or amendment to that motion under consideration. Where such procedural motion is lost, debate on the motion or amendment to that motion shall continue.

7.5.3 Motion to adjourn

The procedural motion, that the motion or amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned. 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.

7.5.4 Motion to change order of business

Where a procedural motion, that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion shall cease and may be considered again by Council on the giving of notice in accordance with this Code.

7.5.5 Point of order

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

- has failed to comply with proper procedures
- is in contravention of the Local Government Act/Regulations, or
- 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 pursuant to clause 10.2. The Chairperson 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 raise a point of order, and thereupon the Councillor against whom the point of order is raised, shall immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or points of order at any time arising shall, until decided, suspend the consideration and decision of every other question.

7.5.6 Motion of dissent

A Councillor may move 'a motion of dissent' in relation to a ruling of the Chairperson on a point of order. Where such 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 Chairperson 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.

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7.6 Questions

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 Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next Meeting.

The Chairperson may disallow a question which is considered inconsistent with an acceptable request or good order.

7.7 Conduct during Meetings

7.7.1 Code of Conduct

Councillors will conduct themselves in accordance with the principles of the Local Government Act 2009 and the standards of behavior set out in the Code of Conduct. The Chairperson may observe or be made aware of instances of possible unsuitable meeting conduct.

After a meeting of Council has been formally constituted and the business commenced, a Councillor shall not enter or leave from such meeting without first notifying the Chairperson.

No Councillor who is speaking shall be interrupted except upon a point of order being raised either by the Chairperson or by a Councillor.

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.

7.8 Disorder

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.

7.9 Closed Meetings (s275 LGR)

- a) The Council has limited powers under the Act and Regulations to close Council Meetings to the public.
- b) In the interests of accountability and transparency, Council must specify the nature of the matter to be discussed and the reasoning of the Councillors for going into closed session.
- c) 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.



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- d) 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.
- e) A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed.
- f) Only procedural resolutions may be made during a closed meeting. The meeting must be reopened before any substantive resolution on the matter is made.
- g) When the Council resolves to close the meeting to the public, The Chairperson may direct all persons other than Councillors and the Chief Executive Officer to leave the Council Chambers. The Chairperson may allow additional persons (including officers of the Council, and Legal and Technical Advisers) to remain in the meeting.
- h) All other persons must immediately leave the Council Chambers.
- i) A person failing to comply with a direction to leave the Council Chambers may be removed from the Council Chambers using reasonable necessary force. For the purpose of effecting the removal the Chairperson may call upon the assistance of a member of the Police Service.
- j) Unless the Council, upon the resumption of its open meeting, resolves to the contrary, all matters discussed in a closed meeting must be kept confidential.

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.

7.10 Method of Taking Vote

- a) Before any matter is put to the vote, the Chairperson may direct that the motion or amendment be read again by the Chief Executive Officer.
- b) The Chairperson must, in taking the vote on a motion or an amendment, put the question, first in the affirmative and then in the negative and may do so as necessary to form and declare an opinion as to whether the affirmative or the negative has the majority vote.
- c) The Councillors will vote by a show of hands or as otherwise directed by the Chairperson. Any Councillor present that fails to vote is taken to have voted in the negative.

7.11 Voting and Decisions of Council

- a) At a meeting of Council:
 - voting must be open; and
 - a question is decided by a majority of the votes of the Councillors present; and



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- each Councillor present has a vote on each question to be decided and , if the votes are equal, the Councillor presiding has a casting vote; and
- if a Councillor present fails to vote, the Councillor is taken to have voted in the negative.

7.12 Disclosures of Interest

Councillors are ultimately responsible to disclose any material personal interest or conflict of interest on matters to be considered at council/committee meetings and comply with the relevant provisions of the Local Government Act and Regulations. Refer to Part 2 at 3. and 4. on how to declare and record interests.

8. ATTENDANCE AND NON-ATTENDANCE:

8.1 Quorum for a Meeting

- a) The quorum for a meeting is **four (4)** Councillors. The Councillors must be present in the room for there to be a quorum and therefore leaving the room for disclosure of interests or other breaks may impact the meeting.
- b) If a quorum is not present within **fifteen (15) minutes** after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within **fourteen (14) calendar days** after the adjournment.

8.2 Councillor Presence at Council Meetings

- a) Council may allow a person including a Councillor to take part in a meeting by teleconferencing by resolution of Council.
- b) **Teleconferencing** is 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.
- c) A Councillor who is absent without Council leave from two (2) or more consecutive statutory meetings of Council over at least two (2) months, may see their office becoming vacant. (s162 (1) (e) LGA 2009)
- d) A councillor who is absent without approved leave from meetings may be considered inappropriate conduct.
- e) Leave is to be approved by the Mayor.

NOTE: Leave from Council Meetings will not be unreasonably withheld if valid reasons for leave are provided for approval.

8.3 Attendance of public and media at meetings

- a) An area must be made available at the place where a meeting is to take place for members of the public and representatives of the media to attend the meeting and as many people as can reasonably be accommodated in the area must be permitted to attend the meeting.



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- b) If Council resolves that a meeting be closed to the public, the public and representatives of the media must be excluded from the meeting.

8.4 Public participation at meetings

The Chairperson may invite a member of the public to take part in the proceedings of a meeting. During debate on a motion, the Chairperson may invite submissions, comments or questions from members of the public provided it is not irrelevant, offensive or unduly long.

9. RECORD OF MEETINGS

9.1 Minutes and access to information (s272 LGR)

- a) The Chief Executive Officer must ensure minutes of each meeting are taken under the supervision of the person presiding at the meeting.
- b) Minutes of each meeting must include:
- the names of Councillors present at the meeting; and
 - if a division is called on a question – the names of all persons voting on the question and how they voted; and
 - reasons for particular decisions (9.3 below)
- c) A copy of the minutes of each meeting must be available for inspection by the public, at Council's public offices and on its website, within **ten (10) calendar days** after the end of the meeting; and
- d) when the minutes have been confirmed – must be available for purchase at the Council's public offices.

9.2 Amending Minutes

Minutes can only be amended at the time of confirmation to correct an inaccurate record of the meeting.

9.3 Recording of reasons for particular decisions (s273 LGR)

- a) This section applies if a decision made at a meeting is inconsistent with a recommendation or advice given to the Council by an advisor of the Council and either or both of the following apply to the decision.
- i. the decision is about entering into a contract the total value which is more than the greater of the following:
- \$200,000 exclusive of GST;



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- 1% of the Council's net rate and utility charges as stated in the Council's audited financial statements included in the Council's most recently adopted annual report;
- b) the decision is inconsistent with:
- i. the policy or approach ordinarily followed by the Council for the type of decision; or
 - ii. a policy previously adopted by the Council by resolution, whether or not as required by an Act, and still in force.

Examples of decisions to which subsection (1) might apply-

- *the grant of a licence, permit or approval, however named, under an Act or local law*
 - *the grant of a concession, rebate or waiver in relation to an amount owed to the Council*
 - *disposing of land or a non-current asset*
- c) The Chief Executive Officer must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.



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PART 2

Model Meeting Procedures

Part 2 of the Code of Meeting Practice for the Balonne Shire Council is based on the Model Meeting Procedures issued by the Department of Local Government, Racing and Multicultural Affairs who have provided the following disclaimer.

Disclaimer: While every care has been taken in preparing this publication, the State of Queensland accepts no responsibility for decisions or actions taken as a result of any data, information, statement or advice, expressed or implied, contained within. To the best of our knowledge, the content was correct at the time of publishing.

Any references to legislation are not an interpretation of the law. They are to be used as a guide only. The information in this publication is general and does not take into account individual circumstances or situations. Where appropriate, independent legal advice should be sought.

An electronic copy of this report is available on the Department of Local Government, Racing and Multicultural Affairs' website at www.dlgrma.qld.gov.au.

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PURPOSE OF THE MEETING PROCEDURES

The purpose of the Model Meeting Procedures is to set out certain procedures to ensure the Local Government principles are reflected in the conduct of Local Government meetings and Local Government committee meetings.

It is not intended that the Model Meeting Procedures would deal with all aspects of meeting conduct but only those required to strengthen public confidence in Local Government to deal with the conduct of Councillors in meetings. Refer to Part 1 for standing orders and conduct of meetings.

BACKGROUND

In particular, as required under section 150F of the *Local Government Act 2009* (LGA) this document sets out:

- the process for how a Chairperson of a Local Government meeting may deal with instances of unsuitable meeting conduct by Councillors.
- the process for how suspected inappropriate conduct of a Councillor referred to the local government by the Independent Assessor (the Assessor) is to be dealt with at a Local Government meeting.

APPLICATION

The Balonne Shire Council has chosen to adopt the Model Meeting Procedures as Part 2 of its Code of Meeting Practice to ensure they are consistent.

Council must conduct its meetings in a manner that is consistent with both Part 1 and 2 of this Code of Meeting Practice.

PROCESSES

1. 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:

- 1.1. The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.
- 1.2. 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 1.7 for the steps to be taken.
- 1.3. 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:



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- 1.3.1. Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
 - 1.3.2. Apologising for their conduct
 - 1.3.3. Withdrawing their comments.
- 1.4. If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 1.5. 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.
- 1.6. If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 1.7. 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:
 - 1.7.1. an order reprimanding the Councillor for the conduct
 - 1.7.2. 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.¹
- 1.8. 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.²
- 1.9. Following the completion of the meeting, the Chairperson must ensure:
 - 1.9.1. details of any order issued is recorded in the minutes of the meeting³
 - 1.9.2. 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 LGA⁴
 - 1.9.3. the 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 1.1, 1.7 and 1.8 above.

¹ Section 150(2) of the LGA.

² Section 150(2)(c) of the LGA

³ Section 150(3) of the LGA

⁴ Section 150J of the LGA

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2. 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 1.9.2 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:

- 2.1 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).
- 2.2. 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 4.
- 2.3. The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.
- 2.4. 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:
 - 2.4.1. an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
 - 2.4.2. an order reprimanding the Councillor for the conduct
 - 2.4.3. an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
 - 2.4.4. an order that the Councillor be excluded from a stated Local Government meeting
 - 2.4.5. 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
 - 2.4.6. an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
 - 2.4.7. an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.



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- 2.5. 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.
- 2.6. 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.
- 2.7. The Local Government must ensure the meeting minutes reflect the resolution made.

3. 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:

- 3.1. 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:
 - 3.1.1. 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
 - 3.1.2. How a person or other entity stands to gain the benefit or suffer the loss
 - 3.1.3. 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.
- 3.2. 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.
- 3.3. 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.
- 3.4. 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.
- 3.5. 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 3.1.
- 3.6. In the event the majority of Councillors inform a meeting of a material personal interest regarding a matter:
 - 3.6.1. the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or



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- 3.6.2. 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.
- 3.7. 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:
 - 3.7.1. The name of the Councillor who has a material personal interest in the matter
 - 3.7.2. The material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest
 - 3.7.3. Whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

4. 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:

- 4.1. 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:
 - 4.1.1. The nature of the interest
 - 4.1.2. If the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person:
 - 4.1.2.1. the name of the other person
 - 4.1.2.2. the nature of the relationship or value and date of receipt of the gift or benefit received, and
 - 4.1.2.3. the nature of the other person's interests in the matter.
- 4.2. 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.
- 4.3. 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.
- 4.4. 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.



Code of Meeting Practice

- 4.5. 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
- 4.6. 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:
 - 4.6.1. The size or significance of the benefit the subject Councillor stands to receive or benefit
 - 4.6.2. The benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision
 - 4.6.3. The closeness of any relationship the subject Councillor may have with a given person or group.
- 4.7. In making the decision under 4.6, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
- 4.8. 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.
- 4.9. 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 4.1.
- 4.10. In the event the majority of Councillors inform of a personal interest in a matter:
 - 4.10.1. the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA, or
 - 4.10.2. 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.
- 4.11. 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:
 - 4.11.1. The name of the Councillor who has declared the conflict of interest
 - 4.11.2. The nature of the personal interest, as described by the Councillor
 - 4.11.3. The decisions made under 4.3 and 4.5 above
 - 4.11.4. Whether the Councillor participated in the meeting under an approval by the Minister
 - 4.11.5. If the Councillor voted on the matter, how they voted
 - 4.11.6. How the majority of Councillors voted on the matter.

(FCS) FINANCE AND CORPORATE SERVICES

ITEM	TITLE	SUB HEADING	PAGE
FCS1	<u>COUNCILLOR REIMBURSEMENT OF EXPENSES AND SUPERANNUATION</u>	Councillor Reimbursement of Expenses, Provision of Facilities and Superannuation	46
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FCS3	<u>AUDIT & RISK COMMITTEE</u>	Membership of the Audit & Risk Committee	57

OFFICER REPORT

TO: Council

SUBJECT: Councillor Reimbursement of Expenses and Superannuation

DATE: 06.04.20

AGENDA REF: FCS1

AUTHOR: Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Councillor Reimbursement of Expenses, Provision of Facilities and Superannuation

Executive Summary

The purpose of this report is to set the reimbursement of expenses, provision of facilities and consider whether a councillor superannuation scheme is required.

Background

S244 of the Local Government Regulations refers to deciding maximum amounts of remuneration for elected members. Remuneration is determined, before 1 December each year, by the Local Government Remuneration Commission.

Councillor remuneration cannot and does not include—

- (a) any amount for expenses to be paid or facilities to be provided to a councillor of a local government under its expenses reimbursement policy; or
- (b) any contribution a local government makes for a councillor to a voluntary superannuation scheme for councillors established or taken part in by the local government under section 226 of the Act.

The purpose of this report is to confirm Councillor's Reimbursement of Expenses and Provision of Facilities Policy and to determine whether any voluntary superannuation scheme is to be established.

Reimbursement of expenses and provision of facilities

S249 of the Local Government Regulations requires Council to adopt a policy providing for the payment of reasonable expenses incurred by Councillors in the discharge of their official duties. It also requires consideration of the facilities that will be provided to councillors to discharge their official duties. The attached policy is for Council to consider and must then be published on Council's website. There are only minor amendments that have been included since it was last adopted in May 2019.

Superannuation

S226 of the Local Government Act 2009 refers to a Super scheme for councillors whereby: Council may for its councillors:

- (a) establish and amend a superannuation scheme; or
- (b) take part in a superannuation scheme.

If Council does so, it may pay an amount from its operating fund to the superannuation scheme as a contribution for its councillors. Council must not make contributions to the superannuation scheme—

- (a) of more than the proportion of a salary that is payable by the local government for its standard permanent employees under this part; or
- (b) for a person who is no longer a councillor.

A councillor may enter into an arrangement with Council under which—

- (a) the councillor agrees to forgo a percentage or amount of the remuneration that the councillor is entitled to as a councillor; and
- (b) the Council agrees to contribute the percentage or amount to the superannuation scheme for the councillor.

The superannuation scheme must comply with the Commonwealth Super Act.

Council does not have a current arrangement in place for superannuation for councillors. A resolution to introduce a superannuation option has budget implications and requires a unanimous decision – ie. Any decision must apply to all councillors, one in all in, one out all out basis.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of accountability and compliance

Consultation (internal/external)

Nil

Legal Implications

Local Government Act and Regulations have been reviewed.

Risk Implications

Financial Impact - Inability to achieve financial sustainability and meet current and future needs of the community.

Policy Implications

Adoption of the resolution will amend the Reimbursement of expenses and provision of facilities policy.

Financial and Resource Implications

The current budget for remuneration and other expenses for Councillors is shown in the table below for the period ending 30/03/2020.

COUNCILLORS SERVICES	Actuals 31/03/2020	Budget	Remaining Budget	% Expensed
Councillors' Remuneration	\$327,785.94	\$432,556.00	\$104,770.06	75.78%
Conferences and Deputations- Council	\$26,811.65	\$25,000.00	-\$1,811.65	107.25%
Council Elections	\$0.00	\$25,000.00	\$25,000.00	0.00%
Misc Meeting Expenditure	\$14,283.57	\$11,000.00	-\$3,283.57	129.85%
Councillors Accident Insurance	\$0.00	\$750.00	\$750.00	0.00%
Maintenance/Operations	\$3,868.59	\$10,000.00	\$6,131.41	38.69%
Travelling Expenses-Councillors	\$1,757.13	\$3,000.00	\$1,242.87	58.57%
COUNCILLORS SERVICES TOTAL	\$374,506.88	\$507,306.00		

There is \$132,800 remaining for councillor services budget for remuneration, elections and reimbursement of expenses. There is \$6,000 remaining for maintenance and operations available for councillor professional development and training. An additional \$14,000 is available from the Finance & Corporate Services conferences and deputations' budget if required for further training expenses. It is not anticipated that training will exceed \$6,000 with the current COVID-19 travel and social gathering restrictions and a majority of training will be completed on line.

The provision of facilities is included in the Operational Projects Budget for new laptops. These have been ordered and will be distributed upon arrival. Mobile phones have not yet been ordered and Councillors may have a preference to retain their personal phone. There are options for those with iphone XS and above to have a dual sim card arrangement.

Operational Projects Budget	YTD Actuals as at 31/03/2020	Budget
Councillor Mobile Phones	\$0	\$9,303
Councillor Laptops/Tablets	\$17,853	\$24,282

Options or Alternatives

Adopt or amend the policy.

Adopt a superannuation scheme for councillors.

Attachments

1. Reimbursement of expenses and provision of facilities Policy [↓](#)

Recommendation/s

That Council resolves to:

1. Not enter into a superannuation scheme arrangement with its councillors; and
2. Adopt the Reimbursement of Expenses and provision of facilities policy, as attached.

Michelle Clarke

Director Finance & Corporate Services



Councillor's Expenses Reimbursement Policy

1. POLICY STATEMENT

The Policy aims to ensure accountability and transparency in the reimbursement of expenses incurred by the Mayor and Councillors.

2. PRINCIPLES

The policy ensures that the council's reimbursement of expenses incurred by councillors is consistent with the Local Government principles and financial sustainability criteria as defined in the Local Government Act 2009.

Councillors should not be financially disadvantaged when carrying out their roles, and should be fairly and reasonably compensated in accordance with statutory requirements and community expectations.

Councillors should not receive a private benefit through their role as a Councillor and as such this policy provides for actual reimbursement of legitimate expenses and full disclosure through appropriate accountability requirements.

3. SCOPE

The policy applies to all Councillors for the reimbursement of expenses incurred, or to be incurred, by them in undertaking their responsibilities. This policy does not provide for salaries or other forms of Councillor Remuneration. Councillor Remuneration is determined annually by the Local Government Remuneration Commission.

4. RESPONSIBILITY

The Chief Executive Officer is responsible for ensuring the policy is understood and adhered to by all Councillors and relevant employees.

5. DEFINITIONS

Council business – means the official business of a Councillor as generally described in Chapter 2, Part 1 of the Local Government Act, 2009. Council business should result in a benefit being achieved either for the local government and/or the local government area. {** Participating in a community group event or being a representative on a board not associated with Council is not regarded as Council Business.}

Councillors – shall mean the Mayor and Councillors unless otherwise stated.

Expense – shall mean payments made by Council to reimburse Councillors for their reasonable expenses incurred or to be incurred when discharging their duties as Councillors. These payments are not regarded as remuneration. The expenses may be either reimbursed to Councillors or paid direct by Council for something that is deemed a necessary cost or charge when on Council business.

Facility – shall mean the 'tools of trade' provided by Council, required to enable Councillors to perform their duties with relative ease and at a standard appropriate to fulfil their professional role for the community.

Hospitality – expense is defined in Council's Entertainment and Hospitality Expenditure Policy as reasonable costs associated with entertaining visitors (where Council has an interest in, or a specific obligation towards, facilitating the visit).

Councillor's Expenses Reimbursement Policy

Professional Development – shall mean attendance by a Councillor at an event where the Councillor expects to develop further skills and knowledge relevant to their role as a Councillor.

Representation – shall mean attendance by a Councillor at various community and special interest representative group meetings and events, which are relevant to the role of Councillor.

Reasonable – shall mean the application of sound judgement and consideration of what is prudent, responsible and acceptable to the community when determining levels of facilities and expenditure.

Training – any facilitated learning activity which is considered by Council to be a requirement for Councillors to discharge their duties and responsibilities as Councillors.

6. POLICY

6.1 REIMBURSEMENT OF EXPENSES

The Council will reimburse Councillors for expenses as set out in the policy. Any expenses not provided for by this policy may be reimbursed only with approval from the Chief Executive Officer. When considering an application for approval of any matter related to this policy, the Council or the Chief Executive Officer must have regard to any relevant principles as contained in the *Local Government Act 2009* and any applicable budget allocation.

6.1.1 Council business

The Council will reimburse expenses incurred in undertaking Council business which includes:

- Preparing, attending and participating in Council meetings, committee meetings, workshops, strategic briefings, deputations and inspections;
- Attending civic functions or civic events to perform official duties or as an official Council representative;
- Attending public/community meetings, presentation dinners and annual general meetings as an official Council representative.

6.1.2 Professional Development

The Council will reimburse expenses incurred for Council approved professional development incurred for:

- mandatory professional development; and
- discretionary professional development deemed beneficial for the Councillor's role.

6.1.3 Travel Expenses

The Council will reimburse local, interstate and overseas travel expenses (e.g. flights, car, accommodation, meals deemed necessary for undertaking Council business and approved professional development. Councillors are to travel via the most direct route, using the most economical and efficient mode of transport. The amount of the reimbursement will be the actual amount expended by the Councillor.

Note: Any fines incurred while travelling in Council owned vehicles, privately owned vehicles or rental vehicles when attending to Council business will be the responsibility of the Councillor incurring the fine.

6.1.4 Flight Bookings

All Councillor travel approved by Council will be booked and paid for by Council. Economy class is to be used where possible although Council may approve business class in certain circumstances. Airline tickets are not transferrable and can only be

Councillor's Expenses Reimbursement Policy

procured for the Councillor's travel on Council business. They cannot be used to offset other unapproved expenses (e.g. cost of partner accompanying the Councillor).

6.1.5 Travel transfer costs

Any travel transfer expenses associated with Councillors travelling for approved business will be reimbursed on production of original receipts. Example: trains, buses and ferry fares cab charge vouchers may also be used if approved by Council where Councillors are required to undertake duties relating to the business of Council.

6.1.6 Private vehicle Usage

Councillors may use their own vehicle with a mileage paid at the appropriate rate determined by the ATO¹ or alternatively councillors may request the use of an available council vehicle, or hire car if a council vehicle is not available. Councillors are to provide written notice to the Chief Executive Officer when travelling for official council purposes using their own private vehicle. Refer to 6.2.1 for booking a council vehicle.

Council may reimburse expenses for private use of a councillor's own vehicle if the:

- Travel is in accordance with this policy
- Claim for mileage is substantiated with log book details
- Total travel claim does not exceed the cost of the same travel using economy flights plus the cost of taxi transfers.

If councillors are utilising their own vehicle they must have appropriate insurance as outlined at clause 7.2.

If however a council staff member is taking a council vehicle and the councillor still chooses to use their own vehicle, without prior approval, then the kilometre allowance will not be paid and the councillor is not covered under council's insurance arrangements."

Amount (cents per km) - 0.68c (current for 2019-20 financial year and subject to change by the ATO)

6.1.7 Accommodation

All Councillor accommodation for Council business will be booked and paid for by Council. Where particular accommodation recommended by conference organisers, Council will take advantage of the package deal that is most economical and convenient to the event.

6.1.8 Meals

Councillors will be reimbursed for the actual cost of meals when:

- the Councillor incurs the cost personally;
- the meal was not provided within the registration costs of the approved activity/event/travel; and
- the Councillor can produce original documents sufficient to verify the actual meal cost.

The actual and reasonable costs allowed for meals are not to exceed the Public Service Domestic Travelling and Relieving Expenses Directive No 9-11 September 2011 equal to the allowance for overnight stay in Brisbane (or as updated).

Meal allowances shall be to the value below, however, the CEO may approve payment beyond these amounts in circumstances considered appropriate.

- Breakfast \$23.65

¹ <https://www.ato.gov.au/Business/Income-and-deductions-for-business/Deductions/Deductions-for-motor-vehicle-expenses/Cents-per-kilometre-method/>

Councillor's Expenses Reimbursement Policy

- Lunch \$26.55
- Dinner \$45.60

If a Councillor cannot produce a receipt for a meal they have purchased then a statutory declaration must be completed to claim the reimbursement. No alcohol will be paid for by Council.

6.1.9 Incidental expenses

Up to \$20 per day may be paid to cover any incidental costs incurred by Councillors required to travel, and who are away from home overnight, for official Council business.

6.1.10 Car Parking Amenities

Council will reimburse councillors parking costs while attending official Council business, upon production of tax invoice.

NOTE: Any fines incurred while travelling in Council-owned vehicles, privately owned vehicles or rental vehicles when attending to Council business will be the responsibility of the Councillor incurring the fine.

6.2 PROVISION OF FACILITIES

6.2.1 Council vehicles

Councillors will have access to a suitable Council vehicle for Council business if required. A Councillor wishing to use a Council vehicle for Council business is to make the booking with the Finance & Corporate front counter service staff at least 2 days prior to use, where possible. The logbook must be filled out at the start and end of the journey. Any defects must be recorded on the log book and reported to the front counter service staff when returning the keys.

6.2.2. Fuel Costs

All fuel used in a Council owned vehicle on official Council business will be provided or paid for by Council using the fuel card located within the vehicle.

6.2.3 Computers, Mobile Phones and/or Tablets.

Council may allocate in a financial year provision for computers, wifi connection and mobile phones to enable Councillors to communicate effectively. Council may provide a Councillor with home office equipment including computer, internet access, if necessary.

6.2.4 Administration Tools

Administrative tools may be provided to Councillors (within budget constraints) as required to assist Councillors in their role.

- office space and meeting rooms
- computers
- mobile phones / reimbursement of call costs
- stationery
- access to photocopiers
- printers
- facsimile machines
- publications
- use of Council landline telephones and internet access in Council offices.

Councillor's Expenses Reimbursement Policy

Secretarial support may also be provided for the Mayor and Councillors.

Access to Council Office Amenities

Councillors will be issued with a security token to gain entry to the Administration Offices during ordinary business hours.

6.2.5 Maintenance costs of Council owned equipment

Council will be responsible for the ongoing maintenance and reasonable wear and tear costs of Council-owned equipment that is supplied to Councillors for official business use. This includes the replacement of any facilities which fall under Council's asset replacement program.

6.2.6 Name Badge/Safety equipment for Councillors

Councillors will be provided with:

- a name badge
- the necessary safety equipment for use on official business. e.g.: safety helmet/boots
- a polo shirt to wear at conferences/meetings outside the Shire.

7. INSURANCE COVER

7.1 Councillors will be covered under relevant Council insurance policies while on Council business. Specifically, insurance cover will be provided for public liability, professional indemnity, Councillors liability and personal accident, and domestic and overseas travel.

Council will pay the excess for injury claims made by a Councillor resulting from the conduct of official Council business and on any claim made under insurance cover.

Council will cover costs incurred through injury, investigation, hearings or legal proceedings into the conduct of a Councillor where arising out of, or in connection with the Councillor's performance of his/her Councillor functions. Where it has been found that the Councillor breached the provisions of the *Local Government Act 2009* or other legislation, the Councillor will reimburse Council all associated costs incurred by Council.

7.2 For all purposes of this policy, the use of a private motor vehicle for official purposes must be authorised by the council.

Before authorisations are given under this directive, the following conditions are to be met:

- the vehicle is to be covered by either a comprehensive motor vehicle insurance policy or a third party property damage insurance policy; and
- the councillor is to produce evidence that the insurance policy has been endorsed to indemnify the Balonne Shire Council against certain liabilities at law. This is a standard endorsement available on request from all insurance companies. The policy does not require the actual words 'Balonne Shire Council'; the word 'employer' will suffice.

Balonne Shire Council will refund any endorsement fees.



Councillor's Expenses Reimbursement Policy

8. LEGAL PARAMETERS

Local Government Regulation 2012

Local Government Act 2009

Income Tax Assessment Act 1997

9. ASSOCIATED DOCUMENTS

Entertainment and Hospitality Expenditure Policy

Councillor Code of Conduct

Reimbursement of Expenses Claim form

OFFICER REPORT

TO: Council

SUBJECT: Local Disaster Management Group

DATE: 07.04.20

AGENDA REF: FCS2

AUTHOR: Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Local Disaster Management Group membership

Executive Summary

The purpose of this report is to appoint the Chairperson and Deputy Chairperson to the Local Disaster Management Group.

Background

The Disaster Management Act 2003 and Disaster Management Regulations 2014 details the requirements for the Local Disaster Management Group [LDMG] and the role of the Chairperson, Deputy Chairperson and other members. A local group consists of the persons prescribed by regulation to be members of the group and who have the relevant qualifications and experience.

The LDMG must report regularly to the relevant district group, and the chief executive of the department, about the performance by the local group of its functions. This may be daily during an event via a situation report. Council utilises Guardian IMS information technology system to help manage its events and record of requests, incidents, minutes and reports.

The functions of the Chairperson of the LDMG is to:

- (a) to manage and coordinate the business of the group;
- (b) to ensure, as far as practicable, that the group performs its functions;

The Chairperson is also the official spokesperson for the LDMG and all media goes through the Chairperson.

The Chairperson and Deputy Chairperson must be appointed by Council – and they must be serving councillors.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Community</u>	Community well-being

Consultation (internal/external)

Department of Local Government Racing & Multicultural Affairs

Legal Implications

The recommendations meet the requirements of the Disaster Management Act 2003 and Disaster Management Regulations 2014.

Risk Implications

Community Service - Inability to achieve Council's vision and mission to deliver community services and meet current and future needs.

Policy Implications

Council has a Local Disaster Management Plan, Business Continuity Plan and draft Pandemic Plan.

Financial and Resource Implications

Council officers ensure that all expenditure relating to a disaster event is recorded separately to ensure that any claim may be made to recover eligible expenditure. There are no additional meeting fees or remuneration for the LDMG positions.

Options or Alternatives

Council has no alternative but to nominate a Chair and Deputy Chair of the LDMG under the relevant legislation.

Attachments

Nil

Recommendation/s

That Council resolves to appoint a Local Disaster Management Group Chairperson and Deputy Chairperson from its elected members in accordance with Section 10 of the Disaster Management Regulations 2003.

Michelle Clarke

Director Finance & Corporate Services

OFFICER REPORT

TO: Council

SUBJECT: **Audit & Risk Committee**

DATE: 07.04.20

AGENDA REF: FCS3

AUTHOR: Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Membership of the Audit & Risk Committee

Executive Summary

The purpose of this report is to appoint two Councillors to the Audit & Risk Committee to ensure its continuity and to meet legislative timeframes for audit and financial reporting.

Background

The Audit & Risk Committee of Council currently has two vacancies and a membership of an independent Chair, Mr James Hetherington and independent member, Mr Craig Dreher. The Terms of Reference is attached for further information. The purpose of the Audit & Risk Committee is to: (S105 LG Act)

- (a) Monitor and review:
 - i. The integrity of financial documents;
 - ii. The internal audit function; and
 - iii. The effectiveness and objectivity of the local government internal auditors; and
 - iv. The risk, control and compliance frameworks.

- (b) Make recommendations to the local government about any matter that the Audit and Risk Committee considers need action or improvement.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	Financial management for long-term sustainability

Consultation (internal/external)

Audit & Risk Committee
Queensland Audit Office

Legal Implications

In accordance with s 211 of the Local Government Regulations 2012, the committee must meet at least twice in each financial year – at present it meets around four times per year. It does state that the committee must meet at least twice each financial year and review its internal audit plan; internal audit progress; draft financial statements; auditor general's reports and then the committee recommendations (as soon as practicable after a meeting of the committee) are to be presented to council.

S105 of the Local Government Act 2009 requires Council to establish an efficient and effective internal audit function. While only large Councils are required to establish an audit committee however it is best practice for a Council to have an audit committee.

Risk Implications

Financial Impact - Inability to achieve financial sustainability and meet current and future needs of the community.

Policy Implications

Appointment of the Councillors will amend the Terms of Reference

Financial and Resource Implications

There no additional meeting fees or remuneration for the Councillor members.

Options or Alternatives

Queensland Audit Office would not favour Council rescinding its Audit & Risk Committee.

Attachments

1. Terms of Reference Audit & Risk Committee [↓](#)

Recommendation/s

That Council resolves to:

1. appoint two councillors to the Audit & Risk Committee and
2. amend the Terms of Reference for the Audit & Risk Committee to reflect the membership change.

Michelle Clarke

Director Finance & Corporate Services



Terms of Reference

Audit and Risk Committee

1. PURPOSE

The Balonne Shire Council Audit and Risk Committee is constituted to fulfil Council's legislative requirement to: -

- (a) Monitor and review:
 - i. The integrity of financial documents;
 - ii. The internal audit function; and
 - iii. The effectiveness and objectivity of the local government internal auditors; and
 - iv. The risk, control and compliance frameworks.
- (b) Make recommendations to the local government about any matter that the Audit and Risk Committee considers need action or improvement.

Nothing in these terms of reference shall limit or prevent the Audit and Risk Committee fulfilling its statutory function.

2. MEMBERSHIP

- Independent Chair holding significant experience and skills in financial matters, to be appointed by Council resolution
- Mayor
- Councillor holding portfolio responsibility for Finance
- 1 independent member, holding significant experience and skills in financial matters, to be appointed by Council resolution

3. ADVISORS

Council's Chief Executive Officer and Departmental Directors are appointed as advisors to the Committee.

The Committee may invite other personnel / consultants as an advisor as may be reasonable for it to discharge it's terms of reference.

Advisors are not members of the Committee.

4. FREQUENCY OF MEETINGS

In accordance with s 211 of the Local Government Regulations 2012, the committee must meet at least twice in each financial year.

1 Document No. >> (Insert Magiq Doc ID 26178) Version No.2
Authorised by >> Council

Initial Date of Adoption >> 21/03/2014
Latest Version Adopted: 19/03/2020
Next Review Date>> 18/07/2021



Terms of Reference

Audit and Risk Committee

The Committee is empowered to determine its meeting frequency, time and venue of meetings and on average meets at least four times per calendar year.

5. MINUTES OF MEETINGS

Following a meeting of the Audit & Risk Committee a written report about the matters reviewed at the meeting and the committee recommendations are to be presented at the next ordinary meeting of council. [S211]

If there are decisions required between meetings of the Audit & Risk Committee and it is impractical to call for a committee meeting then the Chair may authorise a flying minute via email and/or teleconference for the Audit & Risk Committee members to agree on a recommendation to be reported to the next ordinary meeting of council.

6. QUORUM

The Committee Quorum shall be any three members.

7. CHARTER

In undertaking the above responsibilities, the committee may carry out the following:

A. FINANCIAL STATEMENTS

- Review the appropriateness of accounting policies adopted by the Council and ensure the accounting policies adopted are relevant to the Council and its specific circumstances.
- Review the appropriateness of significant assumptions and critical judgements made by management, particularly around estimations which impact on reported amounts of assets, liabilities, income and expenses in the financial statements.
- Review the financial statements for compliance with prescribed accounting and other requirements.
- Review, with management and external auditors, the results of the external audit and any significant issues identified.
- Exercise scepticism by questioning and seeking full and adequate explanations for any unusual transactions and their presentation in the financial statements.
- Ensure that assurance with respect to the accuracy and completeness of the financial statements is given by management.

B. INTERNAL CONTROL

- Understand the scope of internal and external auditors' review of internal control and obtain reports on significant findings and recommendations, together with management's responses.

C. INTERNAL AUDIT

- Have final authority to review and approve the annual internal audit plan and all major changes to the plan.
- Monitor the effectiveness of the internal audit function on an ongoing basis.
- Receive and review Internal Audit reports.
- Review the findings and recommendations of internal audit and the response to them by management.
- Review the implementation of internal audit recommendations accepted by management.

2 Document No. >> (Insert Magiq Doc ID 26178) Version No.2
Authorised by >> Council



Terms of Reference

Audit and Risk Committee

D. EXTERNAL AUDIT

- Review the findings and recommendations of external audit (including from performance audits) and the response to them by management.
- Review the implementation of external audit recommendations accepted by management and where issues remain unresolved ensure that satisfactory progression is being made to mitigate the risk associated with audit's findings.
- The appointment of the external auditor is controlled by the Auditor General and not by Council. The Committee therefore has limited opportunity to influence the scope of work of the auditor.
- Review the external auditors' proposed audit scope and approach.
- Monitor the progress of actions proposed in relation to significant findings and recommendations made by the external auditors.
- The Audit and Risk Committee will act as a forum for the consideration of external audit findings and will ensure that they are balanced with the views of management.

E. COMPLIANCE

- Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up of any instances of noncompliance.
- Review the findings of any examinations by regulatory agencies and any auditor observations.

F. RISK MANAGEMENT

- Review Council's framework for managing and monitoring enterprise wide risk and evaluate whether management have addressed, considered and managed risks throughout the organisation.
- Gain an understanding of the current areas of greatest strategic, financial and operational risk and how management is managing these effectively.
- Regularly review the Council's Risk Register to identify areas of significant risk and determine if appropriate controls or treatments are being applied to eliminate or mitigate those risks.
- Identify areas of risk not adequately addressed or not identified in current action plans and recommend investigation into those areas for Risk Assessment purposes.

8. SELECTION OF COMMITTEE MEMBERS

The selection criteria and process for the appointment of the independent external members shall ordinarily be as follows:

1. The Council shall seek nominations from persons interested in being appointed to the available position. All nominees who satisfy the conditions of this charter shall be eligible for appointment.
2. The eligible persons will be interviewed by a Panel comprising the Mayor, Deputy Mayor and the Council's Chief Executive Officer who shall make recommendations to the Council.
3. Successful applicants will be required to undergo a police check.
4. Following receipt of recommendations from the Panel, the Council may appoint the independent external member by resolution.



Terms of Reference

Audit and Risk Committee

9. TERM OF OFFICE

To allow for knowledge continuity the independent external members will be appointed for the term of two years, after which they will be eligible for extension or re-appointment for a further two years at the Council's discretion, following a review of their performance.

The maximum number of consecutive terms an independent external member can be a member of the committee without the need for calling for further nominations is two (2) terms.

10. VACANCY

In the case of resignation from the committee by an independent external member, the Council is to appoint another independent external member as soon as is possible in accordance with the process set out above.

11. CONFLICTS OF INTEREST

Members are required to declare any interests that could constitute a real, potential or perceived conflict of interest with respect to participation on the committee. The declaration must be made on appointment to the committee and in relation to specific agenda items at the outset of each committee meeting, and be updated as necessary. Members of the Audit and Risk Committee must conduct themselves in a way which is considered appropriate and promotes a culture of ethical behaviour.

12. CONFIDENTIALITY

All information acquired during a member's term of office on the Audit and Risk Committee is confidential to Balonne Shire Council and should not be disclosed either during the memberships or after termination (by whatever means) to third parties except as permitted by law and with prior clearance from the Chair of the committee.

13. REPORTING AND PERFORMANCE

The Audit and Risk Committee will complete an annual review of the Internal Audit charter, Internal Audit Plan and the Audit & Risk Committee's Terms of Reference. The Audit & Risk Committee may consider the following:

- Agree on performance criteria by which the performance of the Audit & Risk Committee will be assessed;
- Assess the effectiveness of the Committee as a whole and the performance of individual Committee members;
- Review implementation of action plans and audit recommendations in response to areas identified for improvement.



Terms of Reference

Audit and Risk Committee

14. REMUNERATION

The independent members of the Committee will be entitled to reimbursement of out of pocket expenses for attendance at the Audit and Risk Committee meetings. Any professional fees will be at the discretion of the council.

15. REVIEW

The Audit and Risk Committee may recommend to council amendments to the terms of reference and membership at any time.

16. LEGAL PARAMETERS

Local Government Act 2009 (Qld), ss105 and 265
Local Government Regulation 2012 (Qld), ss207-211

17. ASSOCIATED DOCUMENTS

Internal Audit Charter
Internal Audit Plan
Code of Conduct for Councillors
Code of Conduct for Employees

Established: 21st March 2014 (CFS3)
18th July 2014 (CFS4) amended
21st April 2016 (GEN6 & CFS6) amended
20 April 2017
18 July 2019
19 March 2020