

CITY OF WEST TORRENS



## Code of Practice: Access to Meetings and Documents

<b>Classification:</b>	Council Policy
<b>First Issued:</b>	2000
<b>Dates of Review:</b>	11 December 2001, 12 November 2002, 3 February 2004, 2 October 2007, 7 October 2008, May 2011, August 2012, July 2015, 2016, 2019
<b>Version Number:</b>	11
<b>Objective ID:</b>	A5875
<b>Next Review Due:</b>	2025
<b>Applicable Legislation:</b>	<a href="#">Local Government Act 1999</a> <a href="#">Development Act 1993</a> <a href="#">Planning Development and Infrastructure Act 2016</a> <a href="#">Freedom of Information Act 1991</a> <a href="#">Local Government (Procedures at Meetings) Regulations 2013</a> <a href="#">Criminal Law Consolidation Act 1935</a> <a href="#">Code of Conduct for Council Members</a> <a href="#">Code of Conduct for Council Employees</a> <a href="#">Electronic Participation in Council Meetings Notice (No 1)</a>
<b>Related Policies or Corporate Documents:</b>	<a href="#">Code of Practice: Procedures at Meetings</a> <a href="#">Public Consultation Council Policy</a> <a href="#">Internal Review of Council Decisions Policy</a> <a href="#">Customer Complaints Council Policy</a>
<b>Associated Forms:</b>	
<b>Note:</b>	This is a statutory document and must be reviewed within 12 months of each Local Government General Election.
<b>Responsible Manager:</b>	<b>General Manager Business and Community Services</b>
<b>Confirmed by General Manager:</b>	General Manager Business and Community Services <b>Date</b> 16 April 2020
<b>Approved by Executive:</b>	<b>Date</b> 16 April 2020
<b>Endorsed by Council:</b>	<b>Date</b> 21 April 2020

## Table of Contents

- 1. **Preamble**..... 11
- 2. **Purpose**..... 11
- 3. **Scope** ..... 11
- 4. **Definitions** ..... 11
- 5. **Access to Meetings** ..... 11
- 6. **Access to Documents** ..... 19
- 7. **Confidential Orders Reporting** ..... 21
- 8. **Review**..... 21
- 9. **Grievance**..... 22
- 10. **Availability of the Code** ..... 22

## CODE OF PRACTICE – Access to Meetings and Documents

### 1. Preamble

- 1.1. The City of West Torrens (CWT) acknowledges that the procedures observed during the conduct of a meeting of Council, Council Committee (Committee) or the Council Assessment Panel (CAP) should contribute to open, transparent and informed decision-making.
- 1.2. However, Council also recognises that on a limited number of occasions it may be necessary, in the broader community interest, to restrict public access to Council, Committee or CAP meetings and/or documents.

### 2. Purpose

- 2.1 To provide guidelines relating to access to meetings and documents by the public and Elected Members.
- 2.2 To clearly outline the purpose of, and on what basis, the Council may apply the provisions of s90 and s91 of the *Local Government Act 1999 (Act)* and s83 of the *Planning Development Infrastructure Act 2016 (PDI Act)* to restrict public access to meetings and/or documents.

### 3. Scope

- 3.1 This *Code of Practice - Access to Meetings and Documents (Code)* applies to the access to Council, Committee or CAP meetings and all documents including Council, Committee and CAP agendas, minutes and attachments.

### 4. Definitions

- 4.1 **Agenda** refers to a list of items of business to be considered at a meeting.
- 4.2 **Clear Days** means the days between the:
  - posting of a notice of a meeting and the day the meeting is held excluding both the day on which the notice is given and the day of the meeting, e.g. when notices are given on a Friday for a following Tuesday meeting, the clear days are Saturday, Sunday and Monday; or
  - holding of a meeting and the day the minutes are released excluding the day of the meeting and the day the minutes are released.
- 4.3 **Minutes** refers to a record of the items discussed and the resolutions made at a meeting of Council, Committee or the DAP.
- 4.4 **Principal Member** refers to the Mayor.
- 4.5 **Presiding Member** refers to a member appointed by the Council to preside at Committee meetings.
- 4.6 **State Emergency** means a major emergency declaration, identified major incident declaration, disaster declaration, public health emergency or any other emergency as so declared under the relevant Act.

### 5. Access to Meetings

#### 5.1 Council Meetings

- 5.1.1 Sections 81(2) and 81(6) of the Act require Council to meet at least once during each month, but not on a Sunday or public holiday and no earlier than 5pm unless Council resolves otherwise by a resolution supported

unanimously by all members of Council. Consequently, ordinary Council meetings will commence at 7pm, in the Council Chamber at the Civic Centre, 165 Sir Donald Bradman Drive, Hilton SA 5033, on the first and third Tuesday of the month with the exception of January each year when it only meets on the third Tuesday of the month and in December each year when Council meets on the second Tuesday of the month.

5.1.2 Special Council meetings may be held at any time.

- a. In accordance with the Act, the Chief Executive Officer (CEO) will give each Elected Member at least 4 hours' notice before the commencement of a special Council meeting.

5.2 Committees established under Section 41 of the Act

5.2.1 Council has established two Prescribed Standing Committees that comprise all Elected Members and meet as part of an ordinary Council meeting. These Committees are:

- a. City Services and Amenity Standing Committee;  
The City Services and Amenity Standing Committee meet during the Council meeting on the 1st Tuesday of every month between and including February and November each year.
- b. City Finance and Governance Standing Committee  
The City Finance and Governance Standing Committee meet during the Council meeting on the 3<sup>rd</sup> Tuesday of every month between and including February and November each year.
- c. Except in a State Emergency, or where Council has resolved to suspend committee meetings.

5.2.2 Council has established four Prescribed General Committees to which Elected Members and, if legally required, independent members are appointed by Council. These Committees, held outside of the ordinary meetings of Council, are the:

- a. City Advancement and Prosperity General Committee;
- b. City Facilities and Waste Recovery General Committee;
- c. Audit General Committee (a statutory committee established under both S41 and S126 of the Act); and
- d. Chief Executive Officer Performance and Review Committee.
- e. Except in a State Emergency, or where Council has moved to suspend committee meetings.

5.2.3 If the Minister has issued a notice under section 302B of the *Local Government Act 1999*, and Elected Members or the public are required and/or able to attend the meeting via electronic means, the *Council Policy: Recording and Live Streaming of Meetings* will apply.

5.3 **Committees established under a Deed of Trust.**

5.3.1 Council has established the Mendelson Committee under a Deed of Trust. As such, the Mendelson Committee does not operate under s41 of the Act. Both Elected Members and independent members are appointed to this Committee in accordance with the provisions of the Deed of Trust with meetings held outside of Council meetings.

- a. The public has no legal right of access to this meeting.

#### 5.4 Council Assessment Panel Meetings.

5.4.1 The Council Assessment Panel (CAP), established in accordance with s83 of the PDI Act, comprises one Elected Member and four independent members, appointed by Council based on their skills and expertise.

5.4.2 The CAP meets on the second Tuesday of each month.

#### 5.5 Notice and Agenda for Meetings.

5.5.1 The CEO will ensure that notice is given to the public of the times and places of ordinary meetings of Council, Committees and the CAP via:

- a. Hard copies publically displayed at least three clear days before the date of each meeting at the Civic Centre and Hamra Centre Library;
- b. Council's website;
- c. A monthly advertisement in the Messenger Newspapers circulated throughout the City of West Torrens.

5.5.2 The CEO will ensure copies of the agenda for ordinary meetings are made available for public inspection three clear days before the date of the meeting via:

- a. Hard copy displayed in the Civic Centre and Hamra Centre Library; and
- b. The City of West Torrens' website.
- c. Except when a notice pursuant to section 302B of the Act amends this requirement in which instance the notice will only be available on the City of West Torrens website.

#### 5.6 Meeting Schedules.

5.6.1 The CEO will ensure that a schedule of the dates, times and places set for ordinary meetings of Council, Committees and the CAP is made available on the City of West Torrens' Website.

#### 5.7 Public Access to Meetings.

5.7.1 Section 90 of the Act requires Council and Committee meetings be open to the public.

5.7.2 During a State Emergency and as per section 90(1a) of the Act, a Council meeting is taken to be conducted in a place open to the public even if more or one Elected Member participate in the meeting via electronic means.

5.7.3 During a State Emergency and as per section 90(1a)(b) of the Act, if an Elected Member is attending a meeting via electronic means, the Chief Executive Officer will ensure that all attempts are made to live stream the meeting.

5.7.4 Section clause 13 of the *Planning, Development and Infrastructure (General) Regulations 2017* (PDI Regulations) requires CAP meetings to be open to the public.

5.7.5 The public will only be excluded from part of a Council, Committee or CAP meeting if the need for confidentiality outweighs the principle of open decision-making and an order to exclude the public is made in accordance with s90 of the Act or, in respect of CAP meetings, regulation 13(2) of the PDI Regulations.

## 5.8 Circumstances when the public can be excluded from a meeting.

### 5.8.1 Council or Committee Meetings

- a. Section 90(3) of the Act provides that Council or a Committee may order that the public be excluded from attendance at any part of a meeting as is necessary to receive, discuss or consider in confidence, any information or matter in the following circumstances:
- a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
  - b) *information the disclosure of which:*
    - i) *could reasonably be expected to confer a commercial advantage on a person with whom Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of Council; and*
    - ii) *would, on balance, be contrary to the public interest;*
  - c) *information the disclosure of which would reveal a trade secret;*
  - d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which:*
    - i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage of a third party; and*
    - ii) *would, on balance, be contrary to the public interest;*
  - e) *matters affecting the security of Council, Members or employees of Council, Council property or the safety of any person.*
  - f) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
  - g) *matters that must be considered in confidence in order to ensure that Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*
  - h) *legal advice;*
  - i) *information relating to actual litigation, or litigation that Council or Committee believes on reasonable grounds will take place, involving Council or an employee of Council;*
  - j) *information the disclosure of which;*
    - i) *would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of Council, or a person engaged by Council); and*
    - ii) *would, on balance, be contrary to the public interest;*
  - k) *tenders for the supply of goods, the provision of services or the carrying out of works;*
  - l) *information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Development*

*Plan Amendment relating to the amendment is released for public consultation under that Act;*

m) *information relevant to the review of a determination of a Council under the Freedom Of Information Act 1991.*

- b. Council and Committees cannot make an order, that the public be excluded from a meeting, only on the basis that discussion of a matter in public may cause embarrassment to Council, the Committee, Elected Members, independent members of a Committee or employees of the City of West Torrens; or
  - i. cause a loss of confidence in Council; or
  - ii. involve discussion of a matter that is controversial within the council area; or
  - iii. make the council susceptible to adverse criticism.
- c. When a decision to exclude the public is taken, a note will be made in the minutes of the meeting which details:
  - i. the making of the order;
  - ii. the grounds on which the order was made in accordance with s90(7) of the Act;
  - iii. the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made;
  - iv. if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest and
  - v. which employees were in attendance.

#### 5.8.2 Informal Gatherings

- a. Council will, on occasions, hold informal gatherings from which the public are excluded in accordance with Council's *Informal Gatherings Policy*. Section 90(8) of the Act provides that informal gatherings of Elected Members (with or without City of West Torrens' employees) may take place if the matter(s) being discussed would not normally form part of a Council meeting agenda, and no decisions are reached.
- b. Pursuant to regulation 8AB of the *Local Government (General) Regulations 2013*, the Chief Executive Officer may apply a confidentiality order to a designated informal gathering or discussion only in the following circumstances:
  - i. On a case by case basis; and
  - ii. if the designated informal gathering or discussion:
    - A. is a planning session of a general or strategic nature; or
    - B. is a briefing relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Act (as listed in clause 5.8.1(a) of this Code).
- c. When a decision to exclude the public from all or part of a designated informal gathering or discussion is made, public notification detail the making of the order and the grounds under which it was made will be available on the City of West Torrens website.

### 5.8.3 Council Assessment Panel

- a. Regulation 13 of the PDI Regulations provides that the CAP may order that the public be excluded from attendance at any part of a meeting as is necessary to receive, discuss or consider in confidence, any information or matter in the following circumstances:
  - a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
  - b) *information the disclosure of which:*
    - i) *could reasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and*
    - ii) *would, on balance, be contrary to the public interest;*
  - c) *information the disclosure of which would reveal a trade secret;*
  - d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which:*
    - i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
    - ii) *would, on balance, be contrary to the public interest;*
  - e) *matters affecting the safety or security of any person or property;*
  - f) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
  - g) *matters that must be considered in confidence in order to ensure that Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*
  - h) *legal advice;*
  - i) *information relating to actual litigation, or litigation that the panel believes on reasonable grounds will take place;*
  - j) *information the disclosure of which:*
    - i) *would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of Council, or a person engaged by Council); and*
    - ii) *would, on balance, be contrary to the public interest; or*
    - iii) *during so much of a meeting that consists of its discussion or determination of any application or other matter that falls to be decided by the panel.*
- b. The CAP will apply the same level of transparency and accountability as Council or Committee and will not make an order, that the public be excluded from a meeting, only on the basis that discussion of a matter in public may:
  - i. cause embarrassment to Council, Committee, CAP, Elected Members, independent members of Committees and/or City of West Torrens employees; or



- ii. cause a loss of confidence in Council or the CAP.
- c. When a decision to exclude the public from all or part of a CAP meeting is taken, a note is required to be made in the minutes detailing the making of the order and the grounds on which it was made under regulation 13 of the PDI Regulations..

## 5.9 Approach to the Use of Confidentiality Provisions

- 5.9.1 Any consideration of the use of confidentiality provisions, to exclude the public from the discussion of a particular matter at a meeting, will require the identification of the grounds as outlined in clause 5.8.
- 5.9.2 Council, Committee, designated informal gatherings and CAP meetings are guided by the following principles:
  - a. open and accountable government is strongly supported;
  - b. confidentiality provisions will only be used when considered proper and necessary;
  - c. when a decision to exclude the public is taken, the reason and legislative grounds for this will be communicated to the public, both in the meeting at the time of the public being requested to leave, and in the meeting minutes.
- 5.9.3 The CWT cannot guarantee confidentiality in relation to any information provided to it by members of the public. This includes (but is not limited to) information such as the names and addresses of person(s):
  - a. contained in petitions to Council;
  - b. responding to consultation;
  - c. hard copy and electronic correspondence with Council;
  - d. who are representors at CAP meetings.
- 5.9.4 A report contained in a Council, Committee or CAP agenda must meet the requirements of s90 of the Act or regulation 13 of the PDI Regulations respectively before the CEO orders that a report be retained in confidence until the matter is presented to Council or a Committee.
  - a. Council, a Committee or the CAP will determine whether any such information will be retained in confidence, refer clause 6.4.

## 5.10 Process to Exclude the Public

- 5.10.1 Items to be considered at Council, a Committee or CAP meetings will generally be placed at the end of the relevant agenda. However, each meeting may resolve, for the convenience of the public present at the meeting, to deal with a confidential matter earlier in the meeting.
- 5.10.2 Before an order to exclude the public from a meeting, to enable the receipt, discussion and consideration of a particular matter, the Council, Committee or CAP will formally determine, in open session, if this is necessary and appropriate.
  - a. If it is deemed necessary and appropriate, Council, a Committee or CAP, after due consideration will resolve to exclude the public while dealing with a particular matter. The resolution will include the grounds, under the relevant legislation, on which the order to exclude the public was made in accordance with s90 of the Act or regulation 13 of the PDI Regulations respectively.
- 5.10.3 When a number of agenda items are identified as confidential within an agenda, the Council, a Committee or CAP will:

- a. determine each item separately, and
- b. consider the grounds for exemption(s) relevant to each item, and
- c. if so determined, resolve to consider the item in confidence.

5.10.4 If Council, a Committee or CAP resolves that a particular matter will be considered in confidence, members of the public must immediately leave the Council Chamber or meeting room or disconnect from any electronic access.

- a. If Council or Committee orders that a matter is to be considered in confidence, City of West Torrens' employees are considered to be members of the public and required to leave the meeting unless the Council, Committee or CAP resolves to allow them to remain in the meeting while the item is being considered. The names of those employees will be included in the resolution to consider the matter in confidence.
- b. It is an offence for a member of the public, who knowing that a confidential order is in force, to enter or remain in the room in which a matter is being considered in confidence.

5.10.5 If the Chief Executive Officer determines that a designated informal gathering or discussion will be subject to a confidentiality order, the public will be notified at the time that the informal gathering is listed on the City of West Torrens Website. This notification will include the reason for the confidentiality order pursuant to regulation 8AB of the *Local Government (General) Regulations 2013*.

## 5.11 Interruption of Meetings by Members

5.11.1 Interruptions of meetings by members will be dealt with in accordance with the *Local Government (Procedures at Meetings) Regulations 2013* (Regulations) and Council's Code of Practice Procedures at Meetings.

5.11.2 Regulation 29 states:

- (1) *A member of a council or council committee must not, while at a meeting:*
  - (a) *behave in an improper or disorderly manner; or*
  - (b) *cause an interruption or interrupt another member who is speaking.*
- (2) *Sub-regulation (1)(b) does not apply to a member who is:*
  - (a) *objecting to words used by a member who is speaking; or*
  - (b) *calling attention to a point of order; or*
  - (c) *calling attention to want of a quorum.*
- (3) *If the presiding member considers that a member may have acted in contravention of sub-regulation (1), the member must be allowed to make a personal explanation.*
- (4) *Subject to complying with sub-regulation (3), the relevant member must leave the meeting while the matter is considered by the meeting.*
- (5) *If the remaining members resolve that a contravention of sub-regulation (1) has occurred, those members may, by resolution:*
  - (a) *censure the member; or*

(b) *suspend the member for a part, or for the remainder, of the meeting.*

(6) *A member who:*

(a) *refuses to leave a meeting in contravention of sub-regulation (4); or*

(b) *enters a meeting in contravention of a suspension under sub-regulation (5), is guilty of an offence.*

*Maximum penalty: \$1250.*

## 5.12 **Interruption of Meetings by Others**

5.12.1 Interruptions of meetings by others will be dealt with in accordance with the Regulations and Council's *Code of Practice: Procedures at Meetings*.

5.12.2 Regulation 30 states:

(1) *A member of the public who is present at a meeting of a council or council committee must not:*

(a) *behave in a disorderly manner; or*

(b) *cause an interruption.*

*Maximum penalty: \$500.*

5.12.3 A member of the public who interrupts the orderly conduct of a meeting must, on request by the Presiding Member, immediately leave the place where the meeting is being held.

- a. If a person does not leave the place where the meeting is held at the request of the Presiding Member, SAPOL will be contacted by an Executive Officer of Council and requested to attend and remove that person.

## 6. **Access to Documents**

6.1 **Publicly available documents**, including Council and Committee agendas and minutes are available for inspection at the Civic Centre, and in some cases the Hamra Centre Library as well as on the City of West Torrens' website, except when a notice pursuant to section 302B of the Act amends this requirement, where the Notice will only be available on the City of West Torrens website.

6.2 **Requests to access documents held by Council** which are not publically available can be made in accordance with the *Freedom of Information Act 1991*.

6.2.1 Enquiries in relation to the process for seeking access to documents held by Council should be directed to one of the City of West Torrens' accredited freedom of information officers or by going to the City of West Torrens' website.

## 6.3 **Access to Agendas**

6.3.1 The CEO will make the agenda for each ordinary meeting of Council, Committee and the CAP available for public inspection at least three clear days before the date of the meeting in hard copy at the Civic Centre and Hamra Centre Library and on City of West Torrens' website, except when a notice pursuant to section 302B of the Act amends this requirement, where the Notice will only be available on the City of West Torrens website, at the same time they are forwarded to the members of Council, a Committee or the CAP.

- 6.3.2 When a special meeting of Council or a Committee has been called, the CEO will make the agenda for the meeting available for public inspection at a reasonable time before the meeting on the City of West Torrens' website at the same time they are forwarded to the members of Council.
- 6.3.3 Items listed on the agenda will be described accurately and in reasonable detail. Copies of any documents and reports that are to be considered at the meeting will be supplied to Council, Committee and CAP members in accordance with clause 6.3.1.
- 6.3.4 Items which are deemed to require consideration in confidence will not be contained in a Council, Committee or CAP agenda made available to the public pursuant to s84(6)(b) of the Act or s56A(12) of the *Development Act*.
  - a. When a confidential item is to be considered by Council, a Committee or CAP, a report will be included in the public agenda, made available pursuant to s84(6)(b) of the Act, detailing
    - i. the report title;
    - ii. the basis on which matter should be considered in confidence;
    - iii. the relevant legislative provisions; and
    - iv. the recommendation to Council to consider the matter in confidence.

#### 6.4 Access to Minutes

- 6.4.1 The CEO will make the minutes of each ordinary or special meeting of Council, a Committee or the CAP available for public inspection, within 5 days after the meeting, in hard copy at the Civic Centre and Hamra Centre Library as well as on City of West Torrens' website, except when a notice pursuant to section 302B of the Act amends this requirement, where the minutes will only be available on the City of West Torrens website, at the same time they are provided to members of Council, a Committee or CAP.
- 6.4.2 In some circumstances Council, a Committee or CAP may order that a document(s) relating to a particular matter that has been considered in confidence (refer clauses 5.10 and 5.11) be retained in confidence in accordance with s91 of the Act and regulation 14(4) of the PDI Regulations and be kept confidential.
- 6.4.3 Council or a Committee must not make an order to retain a document in confidence:
  - a. to prevent the disclosure of the remuneration or conditions of service of an employee of the City of West Torrens after the remuneration or conditions have been set or determined; or
  - b. to prevent the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by Council as to why a successful tenderer has been selected; or
  - c. to prevent the disclosure of the amount or amounts payable by Council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, Council after the contract has been entered into by all parties to the contract; or
  - d. to prevent the disclosure of the identity of land that has been acquired or disposed of by Council, or of any reasons adopted by Council as to why land has been acquired or disposed of by Council.

6.4.4 If the retention of a document(s) in confidence is considered proper and necessary, taking into account the public interest when required, a resolution to this effect contained in the minutes will include the reason and legislative grounds for confidentiality and the circumstances in which the order will cease to apply.

6.4.5

6.4.6 Any order that operates for a period exceeding 12 months will be reviewed by Council at least once each year. Such matters will be considered on a case-by-case basis depending on the particular circumstances of the matter.

6.4.7 Council may delegate to an employee of the City of West Torrens the power to revoke the order but not extend the order and, if relevant, may place other conditions on the delegation. If an order under section 91(7) of the Act expires or ceases to apply in relation to a document or part of a document, Council will make the document or part of the document (as the case requires) available for inspection on City of West Torrens' website and available for inspection at the Civic Centre within a reasonable time, except when a notice pursuant to section 302B of the Act amends this requirement, where the document will only be available on the City of West Torrens website.

6.4.8 Requests to obtain Council, Committee or CAP documents which are not normally available for public inspection can be made under the *Freedom of Information Act 1991* for a fee set annually by the State Government.

## 6.5 **Status of Recommendations to Council by the CEO, Council Committees**

6.5.1 Recommendations to Council or a Committee, contained in reports within a Council or Committee agenda, have not been considered or approved by Council. It is only after the Council has adopted these recommendations, or made alternative decisions, at a formal Council meeting, the Presiding Member has initialled each page of the minutes and signed and dated the last page of the minutes that they become the approved decisions of Council.

6.5.2 Committees do not have the legal ability to make decisions on behalf of Council. Consequently, any decisions contained in the minutes of a Committee have not been considered or approved by Council. It is only after the Council has adopted the recommendations of a Committee, or made alternative decisions, contained in a Council agenda (refer item 12 Adoption of Standing Committee Recommendations and item 13 Adoption of General Committee Recommendations in the agenda), and the Presiding Member has initialled each page of the minutes and signed and dated the last page of the minutes that they become the approved decisions of Council.

## 6.6 **Status or Recommendations to the CAP by the Assessment Manager**

6.6.1 Recommendations to the CAP contained in the CAP agenda have not been considered or approved by the CAP. It is only after the CAP has adopted the recommendations contained in a CAP agenda, or made alternative decisions, that they have legal status.

## 6.6 **Elected Member Access to Documents**

6.6.1 An Elected Member may access any relevant document held by the City of West Torrens in conjunction with the performance or discharge of their

functions and duties as an Elected Member without any charge and within a reasonable timeframe.

- a. A request for access to a document held by the City of West Torrens is to be directed, in the first instance to the CEO or a General Manager via phone, in person or email. The request should identify the document(s) sought with sufficient detail for the document(s) to be identified and retrieved as well as state the reason(s) for the request.
- b. The documents requested should relate to matters under consideration by Council.

- 6.6.2 Elected Members will not be granted access to documents regarding the personal affairs of City of West Torrens' employees, other than the Employee Register of Interests and any publically available information.
- 6.6.3 Elected Members must not seek document(s) for personal reasons or release or divulge documents to any third parties. To do so may constitute a breach of the *Code of Conduct for Council Members* and/or the *Criminal Law Consolidation Act 1935*.
- 6.6.4 The form of access to the document(s) will be negotiated with the Elected Member with regard to administrative efficiency. Forms of access include hard and soft copies or links to websites.
- 6.6.5 If there is a degree of sensitivity surrounding the access to a particular document, the CEO may make the document available to the Elected Member for viewing only at the Civic Centre at a mutual convenient time.

## **7. Confidential Orders Reporting**

- 7.1 A report will be provided to Council on the use of confidential provisions on an annual basis. The report will include the following information:
  - 7.1.1 the number of occasions each of the identified provisions for excluding the public was used;
  - 7.1.2 the number of occasions a confidential order was utilised;
  - 7.1.3 the subject of the confidential item (e.g. a property sale or purchase)
  - 7.1.4 the relevant sub-sections of s90 and s91 of the Act or regulation 13 of the PDI Regulations under which the order was made.
- 7.2 In accordance with Schedule 4 of the Act, a summary of confidential items will be included in Council's Annual Report.
- 7.3 A list and the status of items retained in confidence will be maintained on City of West Torrens' website and will be made available on the website when the confidential order is revoked.

## **8. Review**

- 8.1 The Act requires that Council's *Code of Practice - Access to Meetings and Documents* (the Code) be reviewed within 12 months of a periodic election but Council has the ability to review this Code at any other time.
- 8.2 Before Council adopts, alters, or substitutes this Code, unless proposed changes are minor in nature and do not alter the materiality of the Code, it will;
  - 8.2.1 Make copies of the proposed Code, alterations or substitute Code available for inspection or purchase at Council's principal office and on the Council's website; and
  - 8.2.2 Follow the relevant steps set out in its *Council Policy - Public Consultation*.

## **9. Grievance**

- 9.1 Council has established policies for the review of decisions made by:
- 9.1.1 Council;
  - 9.1.2 Employees of the City of West Torrens; and
  - 9.1.3 Other persons acting on behalf of Council, which have resulted or will result in an administrative act of Council.
    - a. If a person is aggrieved about a decision to restrict access to meetings and/or documents they may lodge an application in writing for consideration under the Council Policy - Internal Review of Council Decisions', established by Council in accordance with s270 of the Act or lodge a complaint with the South Australian Ombudsman.
- 9.2 Council has established a policy for customer complaints
- 9.2.1 If a person is aggrieved by a matter contained in this Code, they may lodge a complaint in writing under the *Council Policy - Customer Complaints* established by Council in accordance with s270 of the Act or lodge a complaint with the SA Ombudsman.

## **10. Availability of the Code**

- 10.1 A copy of this Code is available for inspection by members of the public at the offices of Council or the library during normal office hours, or from the City of West Torrens' website. Alternatively, the public may obtain a copy for a fee fixed by Council. Further enquiries in relation to the Code should be directed to the General Manager Business and Community Services, or telephone 8416 6333 or by email to [csu@wtcc.sa.gov.au](mailto:csu@wtcc.sa.gov.au).