



Model Meeting PROCEDURE

Policy Version 4.0

Category: Statutory

Adopted: December 2024



Model Meeting Procedure

Purpose

The purpose of this Winton Shire Council Procedure is to set out certain procedures to ensure local government principles are reflected in the conduct of local government meetings, standing and advisory committee meetings as defined in the *Local Government Act 2009* and *Local Government Regulation 2012*.

This document reflects the content of the Model Meeting Procedures as published by the Department of Housing, Local Government, Planning and Public Works (the Department).

This policy also ensures Winton Shire Council adheres to legislation as detailed under the “Legislation, recognised Authority and other sources” heading.

Scope

This Policy applies to Councillors, Council staff and other individuals participating in Council meetings (members of the public or parties making a deputation to Council). The Standing Orders Policy applies to all formally constituted meetings of Council (general meetings, standing committee meetings and special meetings).

They do not apply to the Audit Committee. Sections regarding Conflicts of Interest in this document apply Advisory Committees and Panels which have their own Terms of Reference and Policy.

Definitions

Term	What it means / refers to
Best practice example standing orders for local government and standing committee meeting	To assist local governments, the Department of Housing, Local Government, Planning and Public Works (DHLGPPW) provides best practice standing orders that local governments can choose to adopt to provide written rules for the orderly conduct of local government meetings. These best practice standing orders incorporate the meeting procedures that deal with matters during local government meetings that must be adhered to under the Local Government Act 2009 including the DHLGPPW model meeting procedures and the meeting provisions in the Local Government Regulation 2012 Local governments can revise their standing orders to incorporate the model meeting procedures or adopt the model meeting procedures.



Term	What it means / refers to
Chief Executive Officer (CEO)	Refers to the person appointed to the position of Chief Executive Officer under s194 of the <i>Local Government Act 2009</i> and anyone acting in that position.
Councillor	A person elected to the office of Councillor of the Winton Shire Council
Declarable conflict of interest	S150EN of the <i>Local Government Act 2009</i> - the Councillor has, or could reasonably be presumed to have, a conflict between the Councillor's personal interests, or the personal interests of a related party of the Councillor, and the public interest; and - because of the conflict, the Councillor's participation in a decision about the matter might lead to a decision that is contrary to the public interest.
Department	The Queensland Government Department of Housing, Local Government, Planning and Public Works
Executive Officer	Is a senior officer of Council tasked to support a Council meeting or a Council committee meeting
Prescribed conflict of interest	S150EG of the <i>Local Government Act 2009</i>: - a gift or loan is given by an entity (the donor) that has an interest in the matter in a circumstance mentioned in s150EG, subsection (2); and - the gift or loan is given during the relevant term for the Councillor; and - all gifts, loans or sponsored travel or accommodation benefits under s150EH given by the donor to the Councillor, or a close associate of the Councillor, during the Councillor's relevant term total \$2,000 or more.
Presiding Officer	Is the Mayor of the Winton Shire Council or a Councillor of the Winton Shire Council who presides at a meeting of the general Council or a standing committee. The Presiding Officer chairs the meeting and ensures fairness, transparency and that the public interest is served in the deliberations of Council or standing committees of Council.
Standing Orders	Written rules for the orderly conduct of local government meetings.



Policy statement

Under s150F of the *Local Government Act 2009*, the Department must make model procedures for local government and committee meetings. These procedures must be adopted and if the local government adopts other procedures, they must not be inconsistent with the model procedures.

Winton Shire Council has used the “Model Meeting Procedures” revised in March 2024 and the “Best practice example standing orders for local government and standing committee meeting” (issued March 2024), both published by the Department as a basis for this Procedure.

Where there is more detail provided in one of the documents regarding a particular subject, the more detailed process has been included.

The guiding legislation is the *Local Government Act 2009* and the *Local Government Regulation 2012*. References throughout the Procedure are included for those who seek clarification of the legislation requirements.

Meeting principles

Local government meetings must adhere to the following principles:

- Transparent and effective processes, and decision-making in the public interest
- Sustainable development and delivery of effective services
- Democratic representation, social inclusion, and meaningful community engagement
- Good governance of, and by, the local government
- Ethical and legal behaviour of Councillors, local government employees and Councillor Advisors.

Operational requirements

The model meeting procedures include the following:

- the process for the Chairperson to lead and manage local government meetings
- the process for how the Chairperson of a local government meeting may deal with unsuitable meeting conduct by a Councillor
- the process for how the Councillors at a local government meeting may deal with the unsuitable meeting conduct by the Chairperson



- the process for how a suspected conduct breach by a Councillor, that is referred to the local government by the Independent Assessor (IA), must be dealt with at a local government meeting
- the processes for dealing with a conflict of interest arising during a local government meeting and recording the conflict of interest in the minutes of the meeting
- the process for dealing with a loss of quorum due to the number of Councillors with a conflict of interest
- procedures for closing local government meetings to the public

Before proceeding with the business of the local government meeting, the person presiding at the meeting will undertake the acknowledgement and / or greetings deemed appropriate by the local government.

Processes

Process for the Chairperson

Local government meetings are ordinary and special meetings. Under s12(4) of the *Local Government Act 2009*, the Mayor has extra responsibilities in addition to those which all Councillors have.

The Mayor is the Chairperson, leading and managing local government meetings, including managing the conduct of participants at the meeting. The Mayor may delegate another Councillor to perform the Mayor's extra responsibilities including acting as Chairperson when the Mayor is absent, or temporality incapacitated.

Alternatively, if the Mayor has not delegated a Councillor to undertake responsibilities as Chairperson, under the provisions of s165 of the *Local Government Act 2009*, the Deputy Mayor acts for the Mayor during the absence or temporary incapacity or when the office of Mayor is vacant.

1. The Mayor will be the Chairperson at a local government meeting at which the Mayor is present.
2. If the Mayor is absent from a local government meeting, the meeting will be chaired by the Councillor to whom the Mayor has delegated their responsibility to chair the meeting.
3. If the Mayor is absent or unavailable to chair the meeting, and has not delegated another Councillor to do so, the Deputy Mayor will be the Chairperson.
4. If the office of Mayor becomes vacant the Deputy Mayor acts as Mayor and Chairperson of the local government meetings.



5. If the Mayor and the Deputy Mayor are both prevented from chairing the meeting because of absence or temporary incapacitation, and no other Councillor has been delegated the responsibility or appointed to act as Chairperson, the local government may by resolution appoint one of the Councillors present at the meeting to act as Chairperson for the duration of the meeting.
6. The local government may appoint the Chairperson for a committee. This Chairperson will preside over meetings of the committee. The mayor is a member of each standing committee but not necessarily a member of every advisory committee. The Mayor is not necessarily the Chairperson of committee meetings.
7. If the Chairperson of a committee is absent or unavailable to chair, another Councillor who is chosen by the Councillors present, will be Chairperson of the committee meeting.
8. Before proceeding with the business of the local government meeting, the Chairperson at the meeting will undertake the acknowledgement and / or greetings deemed appropriate by the local government.

Note:

Section 12 of the Local Government Act 2009 does not prescribe that other Councillors have the responsibility of chairing local government meetings.

Other Councillors cannot assume the Chairperson role except when they are delegated by the Mayor to perform the extra responsibilities of a Mayor or a resolution has been passed by the Councillors present to select a Councillor to act as Chairperson of a particular meeting, because the Mayor, a delegated Councillor and the Deputy Mayor are unavailable.

The provision for the Mayor to delegate the responsibility to be Chairperson to another Councillor caters for the possibility that the Mayor will not be the Chairperson of a particular local government meeting because the Mayor has, for example, a conflict of interest in a matter, or will be absent or incapacitated for that meeting.

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

The conduct of a Councillor is unsuitable meeting conduct if the conduct happens during a local government meeting and contravenes a behavioural standard of the Code of Conduct for Councillors. When dealing with an instance of unsuitable meeting conduct by a Councillor in a meeting, the following procedures must be followed:

1. The Chairperson must reasonably believe that unsuitable meeting conduct has been engaged in by a Councillor during a meeting.



2. The Chairperson may consider the severity of the conduct and whether the Councillor has been issued with any previous warnings for unsuitable meeting conduct. If the Chairperson decides the conduct is of a serious nature or another warning is unwarranted, the Chairperson can make an order in relation to the conduct under point 7 below.
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:
 - ceasing and refraining from exhibiting the conduct
 - apologising for their conduct
 - withdrawing their comments.
4. If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
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 could result in an order of unsuitable meeting conduct being issued.
6. If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
7. If the Councillor continues to fail to comply with the Chairperson's request for remedial action or the Chairperson decides a warning was not appropriate under point 5 above, the Chairperson may make one or more of the orders below:
 - an order reprimanding the Councillor for the conduct
 - 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.
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.
9. Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for points 1, 2, 3, 7, and 8 above.
10. Following the completion of the meeting, the Chairperson must ensure the minutes record the information about unsuitable meeting conduct (see note below).

Note:

Details of any order issued must be recorded in the minutes of the meeting. If it is the third or more order made within a 12-month period against a Councillor, or the Councillor has refused to comply with an order issued to leave the meeting, these matters are to be dealt with at the next local government meeting as a suspected conduct breach. The local government's Chief Executive Officer is advised to ensure details of any order made is updated in the local government's Councillor conduct register.

Process for dealing with unsuitable meeting conduct by a Chairperson

If a Councillor at the meeting reasonably believes that the conduct of the Chairperson during the meeting is unsuitable meeting conduct, the Councillor may raise the matter in the meeting by point of order.

The Chairperson may correct their unsuitable meeting conduct or if they do not properly correct their behaviour, the Councillor may move a motion that the Chairperson has engaged in unsuitable meeting conduct (a seconder for the motion is required). The Councillors present, excluding the Chairperson, must decide by resolution if the conduct is unsuitable meeting conduct.

The Chairperson has a declarable conflict of interest in the matter and must declare the conflict of interest and leave the place where the meeting is being held, including any area set aside for the public, during the debate and vote on the matter. If the Chairperson wishes to remain in the meeting, the eligible Councillors must make a decision and follow the procedures set out above for declarable conflict of interest.

For the debate and vote on the motion, a Councillor other than the Councillor that moved the motion, is to act as the Chairperson.

If the original Chairperson remains in the meeting, on the condition that they will not vote on the matter as determined by the eligible Councillors, they can put forward their reasoning about their conduct, and respond to questions through the Chairperson from the eligible Councillors.

The acting Chairperson of the meeting will preside over the meeting while the Councillors present at the meeting vote on whether the Chairperson has engaged in unsuitable meeting conduct (the acting Chairperson will have a casting vote on the resolution if required).

If it is decided that the Chairperson has engaged in unsuitable meeting conduct, the Councillors can decide to make an order reprimanding the Chairperson for the conduct.

Once the Councillors make a decision, the Chairperson returns to the meeting (unless they have been permitted to remain in the meeting) and is informed of the decision by the acting Chairperson.

The Chairperson then resumes the role of Chairperson, and the meeting continues.

Note:

Details of any reprimand order must be recorded in the minutes of the meeting. The local government's Chief Executive Officer is advised to ensure details of any order made is updated in the local government's Councillor conduct register.

For conduct of a Chairperson, at local government meetings that is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the Chairperson, on three occasions within a 12-month period, the conduct that led to the orders being made, taken together, becomes a conduct breach.

If the conduct of a Councillor, including a Chairperson, at the meeting becomes a conduct breach (s150J, s150K of the Local Government Act 2009), the local government is not required to notify the Independent Assessor (the Assessor) about the conduct, and may deal with the conduct (s150AG of the Local Government Act 2009) as if an investigation had been conducted. It may be dealt with at the next local government meeting.

Meeting procedures for dealing with a suspected conduct breach including that which has been referred to a local government by the Independent Assessor

Under chapter 5A, part 3, division 3A of the *Local Government Act 2009*, the Assessor must make a preliminary assessment and dismiss a complaint, notice or information if satisfied that particular circumstances apply (s150SD *Local Government Act 2009*). If the Assessor finds that a matter is a suspected conduct breach it must refer the matter to the local government. The Assessor refers the Councillor's suspected conduct breach to the local government by giving a referral notice.

A conduct breach is conduct that:

- contravenes a behavioural standard of the Code of Conduct for Councillors, or a policy, procedure, or resolution of the local government; or
- the conduct contravenes an order of the Chairperson of a local government meeting for the Councillor to leave and stay away from the place at which the meeting is being held; or
- an instance of a suspected conduct breach that may arise from circumstances of three instances of unsuitable meeting conduct orders within a 12-month period.

In relation to matters referred by the Assessor to the local government, the local government may decide not to start or discontinue an investigation if:

- the complainant withdraws the complaint



- the complainant consents to the investigation not starting or discontinuing
- the complainant does not provide extra information when requested
- there is insufficient information to investigate the complaint
- the Councillor vacates or has vacated their office as a Councillor.

The local government investigation must be conducted in a way that is consistent with the local government's Investigation Policy. An investigation report must be prepared to assist the Councillors in making a decision on the outcome (s150AG *Local Government Act 2009*).

Before debating a matter relating to making a decision, a summary investigation report (with redactions) must be prepared and made publicly available (s150AFA *Local Government Act 2009*) on or before the day and time prescribed by regulation.

The local government must decide in a local government meeting, whether the Councillor has engaged in a conduct breach, unless the decision has been delegated to the Mayor (s257(2)(a) *Local Government Act 2009*), or to a standing committee (s257(2)(b) *Local Government Act 2009*). Under the *Local Government Act 2009*, decisions about a conduct breach can only be delegated to the Mayor or a standing committee.

When dealing with an instance of a suspected conduct breach which has been referred to a local government by the Assessor:

1. the local government must be act in a manner consistent with the local government principle of transparent and accountable decision making in the public interest, by deciding the outcome of an investigation of a suspected conduct breach in an open meeting of the local government. However, where the matter requires debate a local government may close all or part of a meeting to the public, if considered necessary, to discuss an investigation report (s254J *Local Government Regulation 2012*).
2. no resolution for a decision can be made in the closed session including a decision about a conflict of interest matter. All matters must be decided in an open session of the meeting or at a later meeting.
3. where a local government makes a decision about a conduct breach matter at a local government meeting that is inconsistent with a recommendation made about that matter in an investigation report, a statement of the reasons for the inconsistency must be included in the minutes of the meeting (s254H of the *Local Government Regulation 2012*).



4. the subject Councillor has a declarable conflict of interest in the matter and must declare the conflict of interest. The eligible Councillors at the meeting can decide by resolution that the subject Councillor may remain in the meeting (unless the eligible Councillors decide otherwise) during the debate about the investigation report and may answer questions put to the subject Councillor through the Chairperson in relation to the evidence or written submission about the conduct breach provided by the Councillor to the local government.
5. the subject Councillor who has a declarable conflict must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have engaged in a conduct breach and what, if any, penalty to impose if the Councillor is found to have engaged in a conduct breach.
6. if the complainant is a Councillor, that Councillor has a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures. If the complainant Councillor who has a conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the eligible Councillors (who do not have a conflict of interest in the matter) must decide how to deal with the conflict of interest. The complainant Councillor can be required to leave the meeting place, or conditions may be applied to allow that Councillor to participate in either the debate, the vote, or the decision on any disciplinary action to be applied (s150AH *Local Government Act 2009*).
7. After making a decision (s150AG *Local Government Act 2009*), the local government must make the full investigation report, publicly available within 10 business days after the decision is made, with redactions of the name of the complainant and any witnesses but including the name of a Councillor or the Chief Executive Officer of the local government if they were the complainant/s, or any Councillor who declared a conflict of interest in the matter.

If the local government has lost quorum due to the number of conflicted Councillors or another reason, the local government must do one of the following:

- delegate deciding the matter (s257 *Local Government Act 2009*) to the Mayor or a standing committee, or a standing committee, whichever is the most appropriate in the circumstances, or
- decide, by resolution, to defer the matter to a later meeting, or
- decide, by resolution, not to decide the matter and take no further action in relation to the matter unless the *Local Government Act 2009* or another Act provides that the local government must decide the matter.

Note:



A local government cannot decide to take no further action on a decision about a conduct matter because it is required under the Local Government Act 2009. In order to reach a decision when a loss of quorum has occurred, the matter can be delegated to the Mayor or a standing committee, or the matter can be deferred to a later meeting when a quorum can be maintained, or the conflicted Councillors may apply to the Minister for permission to participate in the decision.

If the conduct breach referral notice is about the suspected conduct breach by the Mayor, then the matter will need to be delegated to a standing committee for a decision.

The local government should establish a standing committee (s264 Local Government Regulation 2012) to deal with decisions about conduct breach matters that must be delegated.

The standing committee must be in existence before receiving the referral notice from the Assessor, in circumstances where there is no quorum to decide a matter (s150AEA or 150AG Local Government Act 2009) due to conflicts of interest. The standing committee will decide about the Mayor's conduct.

While section 12(4)(f) of the Local Government Act 2009 provides that the Mayor has the extra responsibility of being a member of each standing committee, the Mayor could not be a decision making member of a standing committee dealing with decisions about the Mayor's conduct because of the Mayor's conflict of interest. The remainder of the unconflicted members of the committee will decide the matter.

If a decision is reached that the subject Councillor has engaged in a conduct breach, then the Councillors must decide what penalty or penalties from the orders (s150AH Local Government Act 2009), if any, to impose on the Councillor. In deciding what penalty to impose, the local government may consider any previous inappropriate conduct of the Councillor, and conduct breach, and any allegation made in the investigation that was admitted, or not challenged, and that the local government is reasonably satisfied is true.

The local government may order that no action be taken against the Councillor or make one or more of the following:

- an order that the Councillor make a public apology, in the way decided by the local government, for the conduct
- an order reprimanding the Councillor for the conduct
- an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
- an order that the Councillor be excluded from a stated local government meeting



- an order that the Councillor is removed, or must resign, from a position representing the local government, other than the office of Councillor
- an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
- an order that the Councillor reimburse the local government for all or some of the costs arising from the Councillor's conduct breach.

A local government may not make an order in relation to a person who has vacated their office as a Councillor.

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, and the Chairperson must advise them of the decision made by the local government and if relevant any orders made by resolution.

The minutes of the meeting must reflect the decision and any orders made. A notice must be given to the Independent Assessor as soon as practicable about the decision and the reasons for the decision and if an order is made (s150AH *Local Government Act 2009*) the details of the order.

Conflicts of Interest

Councillors are ultimately responsible for informing of any prescribed or declarable conflict of interest on matters to be discussed at a local government meeting, standing or advisory committee meeting (other than ordinary business matters as prescribed under s150EF and s150EO of the *Local Government Act 2009*).

Prescribed conflict of interest

When dealing with a prescribed conflict of interest, Councillors must abide by the following procedures:

- A Councillor who has notified the Chief Executive Officer in writing, including all the particulars, of a prescribed conflict of interest in a matter to be discussed in a local government meeting must also give notice during the meeting at the time when the matter is to be dealt with.
- A Councillor who first becomes aware of a prescribed conflict of interest in a matter during a local government meeting must immediately inform the meeting of the conflict of interest and the particulars.
- When notifying the meeting of a prescribed conflict of interest, the following particulars must be provided:
 - for a gift, loan, or contract—the value of the gift, loan, or contract



- for an application for which a submission has been made—the matters the subject of the application and submission:
- the name of the entity, other than the Councillor, that has an interest in the matter
- the nature of the Councillor’s relationship with the entity
- details of the Councillor’s, and any other entity’s, interest in the matter.

The Councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject Councillor has written notice of approval from the Minister for Local Government (the Minister) to participate in deciding the matter in a meeting including participating in the discussion and the vote.

Once the Councillor has either left the area where the meeting is being conducted or remains in the meeting under ministerial approval, the local government can continue discussing and deciding on the matter at hand.

However, if the prescribed conflict of interest was reported to the meeting by a Councillor other than the subject Councillor, then the Councillor must disclose their belief or suspicion to the Chairperson and the processes, duty to report another Councillor’s conflict of interest (s150EW *Local Government Act 2009*), will apply.

If more than one Councillor is reported by another Councillor to have a suspected prescribed conflict of interest in a matter, the meeting must deal with each Councillor individually.

If the Councillor with the suspected declarable conflict of interest considers there is no conflict of interest, then the eligible Councillors (those who do not have a conflict of interest in the matter) must make a decision about whether or not the subject Councillor has a prescribed conflict of interest (s150EX(2) *Local Government Act 2009*).

Declarable conflict of interest

A Councillor may raise their personal interests in a matter at the meeting to canvas the view of the other Councillors prior to deciding to declare a conflict of interest. If the other Councillors suspect the personal interest might be a conflict of interest, the Councillor or Councillors may disclose their belief or suspicion to the Chairperson and the processes, duty to report another Councillor’s conflict of interest (s150EW *Local Government Act 2009*), will apply.

If more than one Councillor is reported by another Councillor to have a suspected declarable conflict of interest in a matter, the meeting must deal with each Councillor individually.



The eligible Councillors must then make a decision (s150EX(2) *Local Government Act 2009*).

When dealing with a declarable conflict of interest, Councillors must abide by the following procedures:

- A Councillor who has notified the Chief Executive Officer of a declarable conflict of interest in a matter to be discussed at a local government meeting must also give notice during the meeting at the time when the matter is to be dealt with.
- A Councillor who first becomes aware of a declarable conflict of interest in a matter during a local government meeting must stop participating in the decision on the matter and must inform the meeting of the conflict of interest including the particulars.
- When notifying the meeting of a declarable conflict of interest, Councillors should provide sufficient detail to allow the other Councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following details must be provided:
 - the nature of the declarable conflict of interest
 - if it arises because of the councillor's relationship with a related party:
 - the name of the related party to the Councillor; and
 - the nature of the relationship of the related party to the Councillor; and
 - the nature of the related party's interest in the matter.
 - if it arises because of a gift or loan from another person to the Councillor or a related party:
 - the name of the other person; and
 - the nature of the relationship of the other person to the Councillor or related party and
 - the nature of the other person's interest in the matter; and
 - the value of the gift or loan and the date the gift or loan was made.

After a Councillor has declared a conflict of interest, the Councillor should consider leaving the meeting while the matter is discussed unless they have ministerial approval to participate, or they have reasons why their participation would improve making the decision in the public interest.



If the Councillor chooses not to leave the meeting, the Councillor may advise the other Councillors of their reasons for seeking permission to participate in making the decision (s150ES *Local Government Act 2009*).

In deciding on a Councillor's declarable conflict of interest in a matter, only eligible Councillors (those who do not have a prescribed or declarable conflict of interest in the matter) can participate in the decision making. The decision may be made even if the number of eligible Councillors is less than a majority, or does not form a quorum for the meeting, or is a single eligible Councillor (s150ET *Local Government Act 2009*).

If there is a single eligible Councillor deciding, then a seconder for the resolution is not required.

The eligible Councillor/s at the meeting must then decide, by resolution, whether the Councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the eligible Councillors.

The eligible Councillors may impose conditions on the Councillor to either participate or leave the meeting, for example, they may stay for the debate but must leave for the vote.

The Councillor must comply with any decision and any condition imposed by the eligible Councillors. The Councillor must not participate in the decision unless authorised in compliance with s150ES of the *Local Government Act 2009* or under an approval by the Minister for Local Government under s150EV.

The Councillor who is the subject of the decision may remain in the meeting while the debate is occurring about their ability to participate and can answer questions from the Chairperson to assist the eligible Councillors in making their decision.

The subject Councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the Chairperson, on whether the Councillor may remain in the meeting and participate in deciding the matter in which the Councillor has a declarable conflict of interest.

When deciding whether a Councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the eligible Councillors should consider the particular circumstances of the matter including, but not limited to:

- how does the inclusion of the Councillor in the deliberation affect the public trust
- how close or remote is the Councillor's relationship to the related party

- if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
- will the benefit or detriment the subject Councillor or their related party stands to receive from the decision have a major or minor impact on them
- how the benefit or detriment the subject Councillor stands to receive compares to others in the community
- how this compares with similar matters that the local government has decided and have other Councillors with the same or similar interests decided to leave the meeting
- whether the subject Councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.

If the eligible Councillors cannot decide about the Councillor's participation in the meeting with a declarable conflict of interest, they are taken to have decided that the Councillor must leave and stay away from the meeting while the eligible Councillors discuss and vote on the matter. (s150ET(3) *Local Government Act 2009*).

A decision about a Councillor who has a declarable conflict of interest in a matter will apply to participating in the decision and all subsequent decisions about the same matter (s150ET(4) of the *Local Government Act 2009*), unless there is a change to the Councillor's personal interests and / or the nature of the matter being discussed. If the eligible Councillors decide by resolution the Councillor can act in the public interest on the matter, then the Councillor may participate in the meeting and be involved in processes occurring outside of a local government meeting about the same matter; for example, workshops.

In making the decision, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).

A Councillor does not contravene the above procedures if the Councillor participates in a decision under written approval from the Minister (s150EV *Local Government Act 2009*).

Reporting a suspected conflict of interest

If a Councillor at a meeting reasonably believes or suspects that another Councillor has a personal interest in a matter that may be a prescribed or a declarable conflict of interest, and that Councillor is participating in a decision on that matter, the informing Councillor who believes that a conflict of interest exists must immediately inform the Chairperson of the meeting of their belief or suspicion and the facts and circumstances that led to their belief or suspicion.



If more than one Councillor is reported by another Councillor to have a suspected personal interest in a matter, the meeting must deal with each Councillor individually.

The chairperson then should ask the Councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the Councillor agrees they have a conflict of interest, the Councillor must follow the relevant meeting procedures above for prescribed and declarable conflicts of interest.

If the Councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.

The eligible Councillors must then decide whether the relevant Councillor has a prescribed conflict of interest, a declarable conflict of interest or that the Councillor does not have any conflict of interest in the matter.

If the meeting decides the Councillor has a conflict of interest, the Councillor must follow the relevant meeting procedures above. If a Councillor with a declarable conflict of interest wants to participate in the decision despite the declarable conflict of interest, then the eligible Councillors must make a decision about the Councillor's participation.

If the eligible Councillors at the meeting cannot make a decision about, whether a Councillor has a declarable conflict of interest (s150ER *Local Government Act 2009*), or whether the Councillor may or may not participate in the decision despite the subject Councillor's declarable conflict of interest (s150ES *Local Government Act 2009*), then they are taken to have determined that the Councillor must leave the meeting and stay away while the matter is being decided (s150ET(3) *Local Government Act 2009*).

A decision under these provisions about a Councillor participating in the meeting applies to the matter and subsequent decisions, about the same matter unless there is a change to the Councillor's personal interests and / or the nature of the matter being discussed. If the eligible Councillors decide by resolution that the subject Councillor can act in the public interest on the matter, then the Councillor may participate in the meeting and be involved in processes occurring outside of a local government meeting about the same matter, for example, workshops.

Loss of quorum

In the event where one or more Councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, the local government must resolve to:

- delegate the consideration and decision on the matter, (s257 *Local Government Act 2009*), unless the matter cannot be delegated under subsection three of the



section, because an Act says it must be decided by resolution of the local government

- decide by resolution to defer the matter to a later meeting
- decide by resolution not to decide the matter and take no further action in relation to the matter unless the *Local Government Act 2009* or another Act provides that the local government must decide the matter.

The local government may by resolution delegate a power (s257 *Local Government Act 2009*) to:

- the Mayor or Chief Executive Officer
- a standing committee, or joint committee of the local government
- the Chairperson of a standing committee or joint standing committee of the local government
- another local government for a joint government activity

The local government must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.

The local government must not delegate a power that an Act says must be decided by resolution of the local government (s257(3) *Local Government Act 2009*).

The local government may only delegate a power to make a decision about a Councillor's conduct (s150AG, s257(2) of the *Local Government Act 2009*):

- the Mayor
- a standing committee
- if it is a decision about the conduct of the Mayor, the decision must be delegated to a standing committee.

The Minister for Local Government may, by signed notice, give approval for a conflicted Councillor to participate in deciding a matter in a meeting including being present for the discussion and vote on the matter, if there is a loss of quorum and deciding the matter cannot be delegated, subject to any conditions the Minister may impose.

Any person who is considered by the local government or the Chairperson to be inappropriately presenting may be directed by the Chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.



Recording Prescribed and Declarable Conflicts of Interest

When a Councillor informs a meeting that they or another Councillor have a prescribed or declarable conflict of interest in a matter, the minutes of the meeting must record all the relevant details.

The minutes must include details of how the conflict of interest was dealt with, being (s150FA *Local Government Act 2009*):

- the name of any Councillor and any other Councillor who may have a prescribed or declarable conflict of interest
- the particulars of the prescribed or declarable conflict of interest provided by the Councillor
- the actions taken by a Councillor after informing the meeting that they have, or they reasonably suspect another Councillor has a prescribed or declarable conflict of interest
- any decision then made by the eligible Councillors
- whether the Councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval
- the local government's decision on what actions the Councillor with a declarable conflict of interest must take and the reasons for the decision.
- The minutes of the meeting must record the name of each eligible Councillor who voted in relation to whether the Councillor has a declarable conflict of interest, and how each of the Councillors voted.

The eligible Councillors include a Councillor who has either been granted approval by the Minister or their fellow Councillors to participate and vote on a matter.

If the Councillor has a declarable conflict of interest, the following additional information must be recorded in the minutes of the meeting when the meeting is informed of a Councillor's personal interest by someone other than the Councillor.

- The name of each Councillor who voted in relation to whether the Councillor has a declarable conflict of interest, and how each of the Councillors voted.

Where a decision has been made (s150ES *Local Government Act 2009*), the minutes must include the:

- decision and reasons for the decision
- name of each eligible councillor who voted, and how each eligible councillor voted.



Closed meetings

A local government meeting, standing committee meeting and advisory committee meeting may resolve that a meeting be closed to the public if its Councillors and members consider it necessary to discuss any of the following matters (s254J(3) *Local Government Regulation 2012*)

- appointment, dismissal, or discipline of the Chief Executive Officer
- industrial matters affecting employees
- the local government's budget (which does not include the monthly financial statements)
- rating concessions
- legal advice obtained by the local government or legal proceedings involving the local government, including for example, legal proceedings that may be taken by or against the local government
- matters that may directly affect the health and safety of an individual or a group of individuals
- negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of the local government
- negotiations relating to the taking of land by the local government under the *Acquisition of Land Act 1967*
- a matter that the local government is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or State
- a matter relating to the consideration of an investigation report for a conduct breach matter given to the local government by the Assessor under the *Local Government Act 2009* chapter 5A, part 3, division 5.

A local government or committee meeting cannot resolve that a meeting be closed where the meeting is informed of a Councillor's personal interest in the matter by another person and the eligible Councillors at the meeting must decide whether the Councillor has a declarable conflict of interest in the matter.

Further, the meeting must not be closed if a quorum is lost due to the number of conflicted Councillors who leave the meeting. The local government must resolve to:

- delegate consideration and decision on the matter, (s257 *Local Government Act 2009*), unless the matter cannot be delegated



- defer the matter to a later meeting when a quorum may be available
- not to decide the matter and take no further action in relation to the matter unless the *Local Government Act 2009* or another Act provides that the local government must decide the matter.

None of the above will be considered, discussed, voted on or made during a closed session.

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 while in the closed meeting (a failure to do so could be a contravention of section 171(3) of the *Local Government Act 2009*).

To take a matter into a closed session the local government must abide by the following process:

- pass a resolution to close the meeting
- the resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered
- if it is known in advance, the agenda should clearly identify that the matter may be considered in closed session, and an explanation of why the Councillors at the meeting may consider it necessary to take the issue into closed session must be stated
- no resolution can be made while in a closed meeting (other than a procedural resolution).

Communication

This document will be published on the Winton Shire Council website and stored electronically on the information management software used for the purpose.

As this policy only applies to Council meetings and standing committee meetings with examples of best practice provided by the Department, no other forms of communication are deemed necessary as this policy is required to be adopted by Council.

Legislation, recognised Authority and other sources

- *Local Government Act 2009*
- *Local Government Regulation 2012*



- Best practice example standing orders for local government and standing committee meetings licensed by the Department of Housing, Local Government, Planning and Public Works (March 2024).
- Code of Conduct for Councillors in Queensland issued by the Queensland Government (approved 22 February 2024)
- Local Government Principles issued by the Queensland Government (12 January 2023)

Related Council documentation

- WSC-GOV-POL-005 Investigation Policy
- WSC-GOV-POL-006 Audit Committee Policy and Charter
- WSC-GOV-POL-008 Advisory Committee Policy
- WSC-GOV-POL-011 Related Party Disclosure Policy
- WSC-GOV-PRO-004 Model Meeting Procedure
- WSC-GOV-PWI-001 Advisory Committee Terms of Reference

Review of Procedure

This document will be reviewed every three years and when associated legislation or standards change and remains in force until amended or repealed by resolution of Council.

Record of amendments and adoptions

Date	Version	Reason for amendment	Date adopted by Council
December 2018	1.0	Initial document	20 December 2018
November 2020	2.0	Adopted	19 November 2020
April 2024	3.0	Updated to align with legislation passed in 2023	19 April 2024
December 2024	4.0	Addition of Process for the Chairperson	19 December 2024

