

Confidential Information and Business Policy

Reference Number: P55
Organisational Unit: Governance
Responsible Position: Chief Executive Officer
Relevant Delegations:
Date Adopted: 5 August 2016 (OC145/2016)
Review Date:

Objectives

To ensure that confidential minutes are managed in a consistent manner and to ensure that confidential items are released to the public as soon as practicable once the issues associated with the confidential matter have expired.

Legislation and Reference

Local Government Act section 65 (2)
Local Government (Administration) Regulations section 8

Scope

This policy refers to all council meetings including meetings of the council, local authority or council committee.

Within this document all of these meetings are called “meetings”. Members of the council, local authority or committee are referred to as “members”.

Policy

As a general rule meetings are open to the public. However if a meeting is discussing matters that are confidential the members may declare a meeting or part of a meeting closed. Such a declaration must be by resolution.

What is Confidential

The following information is classified as confidential:

- (a) information about the employment of a particular individual as a member of the staff or possible member of the staff of the council that could, if publicly disclosed, cause prejudice to the individual;
- (b) information about the personal circumstances of a resident or ratepayer;
- (c) information that would, if publicly disclosed, be likely to:
 - (i) cause commercial prejudice to, or confer an unfair commercial advantage on, any person; or
 - (ii) prejudice the maintenance or administration of the law; or
 - (iii) prejudice the security of the council, its members or staff; or
 - (iv) prejudice the interests of the council or some other person;
- (d) information subject to an obligation of confidentiality at law, or in equity;
- (e) information provided to the council on condition that it be kept confidential.

If a matter is confidential, all material relating to the confidential business is confidential.

The material includes but is not limited to:

- An item of business on the agenda of the meeting.
- Minutes of any discussion relating to the confidential business.
- Reports (including attachments) from council staff.
- Reports (including attachments) from external parties (e.g. subject matter experts or agencies).
- Advice received in forms other than reports (e.g. legal advice in the form of correspondence).
- Discussion in relation to a council, council committee or local authority matter.
- Resolutions of the council or a council committee.

Where the members make a determination of confidentiality in respect of an item of business, it remains confidential until the members **resolve otherwise**. The council may make or override a determination of confidentiality in respect of an item of business dealt with at a committee or local authority meeting.

All members, staff and advisors remain bound by a duty of confidentiality in respect of all information in respect of which a determination of confidence is made at a the meeting.

Confidential agenda items

Titles of confidential items will be listed within the normal meeting agenda however they will be identified as being confidential.

When a meeting includes confidential items a separate confidential agenda will be produced. The confidential agenda will then be distributed to the relevant members if it is practical to do so. Hard copies of the confidential agenda will be provided at the meeting.

The confidential agenda will not be published on the website nor will it be provided to members of the public.

Members who receive confidential agendas are required to ensure the continued confidentiality of the item in question. If council officers believe that such confidentiality is at risk, officers will require confidential items to be returned by members at the close of the meeting.

Closed Sessions

Moving into closed session

Unless a meeting has been formally declared as a closed meeting (for example where the committee is a confidential committee) the members may, by resolution, close the meeting to the public.

Resolutions during closed sessions

During closed sessions normal meeting processes are to be observed. That is, debate, motions and resolutions must be undertaken in accordance with standing procedures.

All resolutions made a during closed session will be minuted by the minuting officer.

At the time of resolution, the members must determine:

- Whether the resolution is to remain confidential; and if so:
- How long the item shall remain confidential.

Unless otherwise specified the item will remain confidential.

Moving out of closed session

At the end of a closed session, the meeting may determine that the resolutions of the closed session be read in open session.

However, unless specifically released, supporting material may remain confidential.

Exclusion of members of the public

Under section 65 of the Local Government (Administration) Regulations, members of the public may be excluded from the meeting room in which the confidential item is discussed. Please note that members of the staff are not automatically excluded from confidential business.

Typically, members of staff will remain in the closed session unless the item deals with an issue which requires specific confidentiality. In this case, the CEO or the President will determine which staff members remain present.

Confidential minutes

Confidential minutes will be created for all confidential items.

A confidential items register will be maintained by council. The register will be reviewed annually to determine what items may be released to the public.

The confidential items register will be available for inspection by the public.

Confidential Committees

If the purpose of a council committee meets the criteria for confidentiality as established the regulations, a committee may be classified as confidential. The terms of reference must specify that the committee is confidential and explain on what grounds this decision is made.

Approval and Review History

Date	Comment
05/08/16	Adopted (145/2016)