



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

## Code of Practice for Access to Meetings and Associated Documents

Approved by:	Council
Responsible Division:	Governance
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Last Reviewed:	February 2023
Next Review Date:	November 2023

### 1. Purpose

The City of Salisbury supports the principle that a meeting of Council or a Council Committee should contribute to open, transparent, and informed decision-making, and encourage appropriate community participation in the affairs of the Council.

This Code sets out the commitment of the City of Salisbury to provide public access to meetings of Council and associated documents, and outlines the primary means by which the community can gain access to the information about the business of Council and Council Committees.

The Code includes information relating to:

- Access to the agenda for meetings
- Council's principles on public access and participation
- The process to exclude the public from meetings
- Matters for which the Council, or a Council committee, can order that the public be excluded
- Public access to documents, including minutes
- Review of confidentiality orders
- Accountability and reporting to the community, and the availability of the Code of Practice
- Grievance about the use of the Code of Practice by Council.

This Code of Practice clearly states the City of Salisbury's commitment to open and transparent decision making and provides the community with certainty in relation to access to meetings and associated documents.

## 2. Scope

This Code of Practice applies to all meetings of Council and associated documents.

## 3. Legislative Requirements and Corporate Policy Context

- Local Government Act 1999
- City of Salisbury Code of Practice for Meeting Procedures

## 4. Interpretation/Definitions

### Associated documents

Refers to agendas, reports, attachments and minutes of meetings of Council or Council Committees.

### Clear Days

The number of calendar days between the giving of the Notice of the meeting. This excludes the day on which the notice is given and the day of the meeting. When notices are given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.

## Committee

Refers to (section 41) Council Committees established under the *Local Government Act 1999*.

## 5. Policy Statements

The City of Salisbury will:

Act in the best interest of the community, with honesty, integrity and transparency;

Represent the interests of the Salisbury community through responsible, open and accessible government;

Ensure confidentiality provisions will only be utilised when considered absolutely necessary;

Ensure that in all cases, the information will be made publicly available at the earliest possible opportunity.

- 5.1 The city of Salisbury is committed to the principles of open and accountable governance. The practices of the City of Salisbury Council and its Committees in dealing with confidential matters reflect these principles. The aim of this Code is to provide clear guidance for Council members and staff about their obligations in relation to Confidentiality.
- 5.2 The City of Salisbury will conduct all formal meetings of Council in public and will provide public access to all documents considered at those meetings. In some instances, Council or Council Committee may form the view that it is necessary and in the broader community interest to exclude the public from the discussion of a particular matter. The public will only be excluded when it is considered necessary, the need for confidentiality outweighs the principle of open decision making.
- 5.3 The following procedures and practices will apply when considering whether to restrict public access to a Council or Council Committee meeting or a report presented to these meetings:
  - Where the Chief Executive Officer believes that a matter should be considered in confidence, the nature of the matter and the reasons why it should be considered in confidence will be clearly stated on the agenda for the meeting which is made available to the public.

- Information of a confidential nature will be placed in attachments to reports, where possible, so that the report itself can be made available to the public.
- Recommendations and resolutions will be framed, where possible, so that public access to the minutes of these meetings does not need to be restricted.
- Public access will be restricted for the minimum period of time necessary to allow the matter to be resolved.
- Council reports on assessment of tenders for the provision of goods and services to Council will become public as soon as the contract documentation is executed and finalised.

5.4 Council and Committee items declared confidential will be recorded in a Register of Confidential Items listing the following information:

- title of the item
- date of the Council or Committee meeting;
- reason for holding the matter confidential and the legislative provision which applies;
- date of release from confidentiality

and the Register will be made available for public inspection.

## 5.5 Council and Committee Meetings and Documents

### 5.5.1 Notice, Agenda and Reports for Council and Sub/Committee Meetings

One of the main opportunities for the community to obtain information about the business of Council is from the agendas for Council and Committee meetings and associated reports and attachments. The following process applies to encourage public access:

At least three clear days before an ordinary meeting of Council or Council Committee meeting (unless it is a special council meeting) the Chief Executive Officer must give written notice of the meeting to all Council and Committee members setting out the date, time and place of the meeting. The notice must contain or be accompanied by the agenda for the meeting.

A copy of associated reports, attachments and recommendations to be considered by the Members will be available for public inspection on Council's website [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au). Members of the public may request a copy of a particular report or reports in accordance with Council's Schedule of Fees and Charges. The notice of a meeting, agenda and reports will be published on Council's website - [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au)

If, in the opinion of the Chief Executive Officer, a matter is likely to be required to be dealt with in confidence, that matter will be noted on the Agenda together with the reason that it may need to be discussed in confidence. The reason must fall within the provisions of Section 90(3) of the Act (as outlined in Attachment 1 to this Policy).

## 5.6 Public Access to Meetings

Council and Council Committee meetings are open to the public and attendance is encouraged, noting there are circumstances where the Council or Council Committee believes it is necessary and in the broader community interest to exclude the public from the discussion and if necessary the decision of a particular matter.

Council facilitates public attendance at meetings of Council and Committees through public notification of meetings by publication of Notice and Agenda on the Council website and notice on Council notice board.

The public will only be excluded when considered appropriate and necessary, for example, the need for confidentiality outweighs the principle of open decision making.

In considering whether an order should be made under section 90(2), it is irrelevant that discussion of the matter in public may:

- Cause embarrassment to the Council or Committee concerned, or to members or employees of the Council;
- Cause a loss of confidence in the Council or Committee;
- Involve discussion of a matter that is controversial within the council area; or
- Make the council susceptible to adverse criticism.

## 5.7 Process to Exclude the Public

Before a Committee excludes the public from discussion of a particular matter or matters in confidence, the Council or Council Committee must, in public, formally determine if this is necessary and that it falls within the relevant provisions of Section 90(3) of the Act as a matter(s) justifying treatment in confidence. The meeting will then pass an appropriate resolution or resolutions to exclude the public.

The debate on whether or not the public should be excluded will be held in public.

The public will only be excluded after a motion to that effect is carried.

If a resolution or resolutions to exclude the public is/are made, the grounds for this will be communicated to the public present at the meeting and will be recorded in the Minutes together with the basis on which the information or matter(s) to which the order(s) relates falls within the ambit of each ground on which the order(s) was/were made and if relevant, the reasons that receipt, consideration or discussion of the information or matter(s) in a meeting open to the public would be contrary to the public interest.

If this occurs then the public must leave the room in which the meeting is being held.

Once debate on each matter is concluded, the meeting will then consider if it is necessary to make an order that some or all documents associated with the relevant matter remains confidential. In determining this, the meeting will have regard to the provisions of the Act and this Code. If an order is made the meeting will also determine for what period, or for what circumstances the document or portion of the document will remain restricted from public access.

Once discussion on the matters to be heard in confidence is concluded, the public are then permitted to re-enter the meeting.

Council or the Council Committee, can permit a particular person or persons to remain in the meeting by including reference to them within the exclusion order.

## 5.8 CEO Briefing/Workshop Sessions

Section 90A of the Act provides that the Council or Chief Executive Officer may arrange for the holding of an information or briefing session.

Council or the CEO are permitted to facilitate an 'information or briefing' session where more than one member of the Council or Council Committee is invited.

A matter must not be dealt with at an information or briefing session in such a way so as to obtain, or effectively obtain, a decision outside of a formally constituted meeting of Council or Committee.

If the matter to be discussed at an information or briefing session will, or is intended to be, on the agenda for a formal council or committee meeting, the information or briefing session must be open to the public.

An information or briefing session may be closed to the public to allow attendees to receive, discuss or consider any information or matter listed in section 90(3) of the Act. This decision can either be made by the Council at a Council meeting held prior to the information or briefing session or by the CEO before or at the session.

The relevant considerations for each of the relevant subsection in section 90(3) of the Act will be considered when determining to close the information or briefing session to the public and making an order to that effect.

When an order is made to close an information or briefing session to the public, as soon as practicable after the making of an order a record of the order must be kept:

- a) The grounds on which the order was made; and
- b) The basis on which the information falls within the ambit of each ground of section 90(3) on which the order was made; and
- c) If relevant, the reason that receipt, consideration or discussion of the information publicly would be contrary to the public interest.

In the interests of good governance, a notice of CEO Briefing/Workshop Sessions will be published on the Council website and if a session is to be closed to the public, will include the relevant provisions under Section 90(3) of the Act.

## 5.9 Confidentiality provisions

In accordance with the requirements of section 90(3) of the Local Government Act, the Council or a Council Committee, may order that the public be excluded in order to receive, discuss or consider any of the information or matters in confidence that are included as attachment 1 to this Code.

## 5.10 Public Access to Documents

The *Local Government Act 1999* requires Council to make available certain documents, which are set out in Schedule 5, in addition to other documents within the Act. Schedule 5 documents must be published on a website determined by the CEO. Provision of printed copies must be provided to any person upon request. Provision of printed copies of documents may require a payment of a fee in accordance with Council's Schedule of Fees and Charges.

Any inquiries in relation to the process for seeking access to documents held by the Council should be directed to the Freedom of Information Officer on 8406 8222 or email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au)

## 5.11 Review of Confidential Orders

Where keeping a document confidential is considered absolutely necessary, a resolution to this effect is required, which shall include the grounds for confidentiality and the duration of the order or circumstances in which the order will cease to apply or when the order must be reviewed.

It is the general practice of this Council to review all confidential orders twice a year. Depending on the nature of the material, the confidentiality order may be lifted at the time of review, thereby providing access by the public, or another review period may be set.

Council may delegate to an officer or employee the authority to revoke a confidential order, and if relevant, may add conditions as to when the delegation can be used.

Orders that exceed 12 months must be reviewed annually and the Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the documents to remain confidential. The conduct of the annual review can be delegated to the CEO and sub-delegated to an employee of the Council if appropriate.



## 5.12 Reporting

A report on the use of sections 90(2) and 91(7) by the Council and Council Committees must be included in the annual report as required by Schedule 4 of the Local Government Act 1999 the report will include the following:

- Number of occasions each of the provisions of sections 90(2), 90(3) and section 91(7) were utilised;
- The date and subject of each order made under sections 90(2), 90(3) and 91(7);
- in relation to each ground specified in section 90(3), the number of times in the relevant financial year that an order was made under section 90(2) and 90(3) for each ground;
- The number of orders made under section 91(7) that expired, ceased to apply or were revoked during the relevant financial year and the date and subject for each order, and;
- the number of orders made under section 91(7) since 15 November 2010 that remained operative at the end of the financial year.

## 5.13 Grievances

In the first instance, any questions or complaints in relation to this Code should be raised with the Manager Governance. The question or complaint should be made in writing (wherever possible) to ensure all grievances are considered and acted upon in a proper manner. Questions or complaints should be marked to the attention of the Manager Governance, City of Salisbury, PO Box 8, Salisbury SA 5108 or via email [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au).

Should this not resolve the matter, a formal application for internal review of this decision can be made. This will be dealt with in accordance with Council's Internal Review of Council Decisions Process.

If a person remains aggrieved about an action of Council, they have the option of seeking to have the Ombudsman review the matter. It is hoped that all grievances can be resolved with Council, but if not, Council Staff can provide details of how to contact the Ombudsman if required.

## 6. Related Policies and Procedures

- Internal Review of Council Decisions - Section 270 *Local Government Act 1999*
- City of Salisbury Code of Practice for Meeting Procedures
- City of Salisbury Fees and Charges Register

## 7. Approval and Change History

Version	Approval Date	Approval By	Change
5	22 November 2021	Council	Review following commencement of the Statutes Amendment (Review) Act 2021
6	February 2023	Council	Updated reflect changes in the Statutes Amendment (Local Government Review) Act 2021

## 8. Availability

The Code is available to be downloaded, free of charge, from Council's website [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au)

The Code will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set out in the City of Salisbury Fees and Charges Register.

City of Salisbury Community Hub

34 Church Street, Salisbury SA 5108

Telephone: 84068222

Email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au)

## 9. Review

This Code will be reviewed within 12 months of a Council election and thereafter as necessary.

In accordance with the Act, before Council adopts, alters or substitutes a code of practice under section 92 of the Act, it will undertake public consultation on the proposed code, alterations or substitute case (as the case may be).

## 10. Further Information

For further information on this Code please contact:

Responsible Officer: Manager Governance

Address: 34 Church Street, Salisbury SA 5108

Telephone: 8406 8222

Email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au)

**MATTERS FOR WHICH COUNCIL, OR A COMMITTEE, CAN ORDER THAT THE PUBLIC BE EXCLUDED**

In accordance with the requirements of section 90(3) of the Local Government Act, the Council, or a Council Committee may order that the public be excluded in order to receive, discuss or consider any of 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 the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the 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 on a third party; and
  - (ii) would, on balance, be contrary to the public interest.
- e. matters affecting the security of the council, members or employees of the council, or 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 the 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 council or council committee believes on reasonable grounds will take place, involving the council or an employee of the 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 the council, or a person engaged by the council); and
  - (ii) would, on balance, be contrary to the public interest;
- k. tenders for supply of goods, the provision of services or the carrying out of works;
- m. information relating to a proposed amendment to a proposal to prepare or amend a designated instrument under Part 5 Division 2 of the Planning, Development and Infrastructure Act 2016 before the draft instrument or amendment is released for public consultation under the Act
- n. information relevant to the review of a determination of a council under the Freedom of Information Act 1991;
- o. information relating to a proposed award recipient before the presentation of the award

The Act provides for a definition of “personal affairs” being a person’s financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person’s employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person.

*(Local Government Act 1999 – Section 90)*