



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

CEO Briefing/Workshop Session Procedure

Adopted by:	Council
Responsible Division:	CEO and Governance
First Issued/Adopted:	25 October 2021
Last Reviewed:	
Next Review Date:	October 2023

1. Introduction/Purpose

- 1.1 Information and briefing sessions provide a valuable opportunity to enhance Council decision-making processes by providing opportunities for Elected Members to become better informed on issues and seek further clarification prior to making decisions at formally constituted Council meetings.
- 1.2 Open and Transparent Council meetings and Council Committee meetings underpin representative democracy and ensure public confidence in Council's decision-making processes.
- 1.3 Section 90A of the *Local Government Act 1999* (the Act) provides that the Council or Chief Executive Officer may arrange for the holding of an information or briefing session.

2. Scope

- 2.1 This Procedure is applicable to all Elected Members, Employees, Contractors and Volunteers of the City of Salisbury.
- 2.2 Section 90A of the Act applies to sessions held or arranged by the Council or the CEO:
 - a. To which more than one (1) member of the Council or Council Committee is invited; and
 - b. The purpose of which is to provide information or a briefing to attendees.

Examples include a CEO information session or workshop on a matter relating to an upcoming Council matter, but also any gathering that the CEO might arrange between the Mayor and Committee Chairs, as an agenda preparation or an agenda discussion, will be a CEO Briefing session within section 90A of the Act.

- 2.3 Section 90A does not apply to formal meetings of Council or Council Committees held under Chapter 6 of the Act, nor does it apply to (for example):
 - a. A meeting scheduled between a Mayor and a Elected Member to discuss a constituent concern;
 - b. A training session for all Elected Members on meeting procedures;
 - c. A 'walk through' of the Council agenda attended by the Mayor, CEO and Manager Governance prior to the Council meeting;
 - d. A selection panel discussion to short list candidates for the position of independent member on the Audit and Risk Committee; and
 - e. Two Ward Councillors meeting for coffee to discuss ward related issues.

3. Legislative Requirements and Corporate Policy Context

Local Government Act 1999 – Section 90A

4. Interpretation/Definitions

The Act: *Local Government Act 1999.*

5. Procedure Statements

- 5.1 Matters must not be dealt with at an information session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal Council or Committee meeting.

- 5.2 Under the Act, there is an obligation to conduct information or briefing sessions in a place open to the public when a matter that is, or is intended to be, on the agenda for a formal meeting of the Council is to be discussed. (Section 90A(3)).
- 5.3 To constitute an information or briefing session under the Act, more than one (1) member of the Council or Council Committee must be invited to attend or be involved in the session.
- 5.4 The session must be convened for the purposes of providing information or a briefing to attendees.
- 5.5 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.
- 5.7 The relevant considerations for each of the relevant subsection in section 90(3) (Appendix 1) will be considered when determining to close the information or briefing session to the public and making an order to that effect.
- 5.8 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 should be made of:
 - 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.
- 5.9 Information or briefing sessions will be taken to be conducted in a place open to the public even if one or more Elected Members participate in the session by remote participation.
- 5.10 As a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public, Information regarding the matters to be discussed or presented will be published before the session unless captured by the confidential provisions of the Act.
- 5.11 If a person has been lawfully excluded from an information or briefing session, it is an offence for them to remain (s 90(5)). This prohibition does not apply to Elected Members, Independent Council Committee Members or people specifically permitted to remain (s 90(6)).

6. Related Policies and Procedures

6.1 *City of Salisbury Code of Practice for Meeting Procedures*

7. Steps of the Procedure

7.1 In the interests of good governance, a notice of CEO Briefing/Workshop Sessions will be included in the Notice of Meetings.

7.2 If the meeting is to be closed to the public pursuant to Section 90(3) of the Act, the Council or CEO will:

1. before deciding, consider the relevant considerations set out in section 90(3);
2. Make an order (either by resolution, or if it is the CEO, in writing) pursuant to section 90A(4);
3. Either contemporaneously with making the order or as soon as reasonably practicable after making the order, make a record of:
 - a. the grounds on which the order was made; and
 - b. 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; and
 - c. if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.

7.3 As soon as practicable after the holding of an information or briefing session information relating to;

- a. The place, date and time of the session;
- b. The matter discussed at the session; and
- c. Whether or not the session was open to the public

must be published on a website determined by the CEO (r 8AB, the General Regulations).

8. Record Keeping

8.1 Section 90A(5) requires that when an order is made to close an information or briefing session to the public a record of that order must be made.

- 8.2 Orders made by a council to close an information or briefing session will be made by resolution at a council meeting and the record of that order will be captured within the minutes of the relevant Council meeting.
- 8.3 In relation to orders made by the CEO, the order closing the session to the public will be recorded in writing and maintained in accordance with Council's record keeping system.
- 8.4 There is no obligation for councils to make documents provided to Elected Members at information or briefing sessions available to the public. In addition, documents presented to information or briefing sessions that are closed to the public because they comprise information or a matter listed in section 90(3) are confidential at law.

8. Approval and Change History

Version	Approval Date	Approval By	Change
1	25 October 2021	Council	N/A

9. Availability

- 9.1 The Procedure is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 9.2 The Procedure 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 annually by Council.

City of Salisbury Community Hub
 34 Church Street, Salisbury SA 5108
 Telephone: 84068222
 Email: city@salisbury.sa.gov.au

10. Review

This Procedure will be reviewed:

- Within 12 months of a Council election and thereafter as necessary; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Procedure, please contact:

Responsible Officer: Manager Governance

Address: 34 Church Street, Salisbury SA 5108

Telephone: 8406 8222

Email: city@salisbury.sa.gov.au

APPENDIX 1

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

Council, or a committee may order that the public be excluded 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 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 Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that 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)