



Committee Policy

BS – RC – 01
Corporate Compliance

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1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

| | |
|-------------------------|-------------------------|
| Policy Name | <i>Committee Policy</i> |
| Business Unit | Risk and Compliance |
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DOCUMENT HISTORY

| | Version | Date | Author |
|---------------------------------|---------|------------------|----------------------------|
| Initial Draft | 1 | September 2013 | Melanie Harrison |
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| Approved Leadership Team | 1 | November 2013 | Leadership Team |
| Approved Council | 1 | 11 December 2013 | Council Resolution R469/13 |
| Review Draft | 1.1 | 28 March 2017 | Cameron Montgomery |
| Review Final | 1.1 | September 2017 | Cameron Montgomery |
| Approved | 1.1 | 11 October 2017 | Council Resolution R366/17 |

2 POLICY STATEMENT

Intent:

To provide forums for the community to engage with Council, present views and support Ballarat City Council on issues relevant to Council activities.

Objectives:

- Provide a consistent approach to the establishment of Council Committees on which there is a Councillor representation;
- To provide support and direction in the formation of committees and distinction between the roles and responsibilities of different committees in which there is a Councillor representation; and
- Provide Council with opportunity to monitor the performance and relevance of all committees against the Council Plan, the documented Terms of Reference and objectives of each Committee to ensure that committees do not operate in perpetuity beyond achieving their purpose.

Statement:

- Councillors, Special Committee members, Advisory Committee members and Officers are to comply with this policy to meet legislative requirements;
- This policy intends to promote a collaborative environment with Council and the community; and
- It is expected that all members will contribute to the Committee on equal terms, openly, honestly and without fear of discrimination.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be directed to the Executive Manager Safety, Risk & Compliance Services.

4 APPLICABILITY

This policy applies to Council endorsed committees, including *Special Committees, Advisory Committees* and where appropriate involvement in *External Committees, Groups and Boards*. Therefore, this policy applies to Councillors and public members of committees.

Council Officers that are full-time and part-time employees and may apply to contract, temporary and casual employees engaged by the Council.

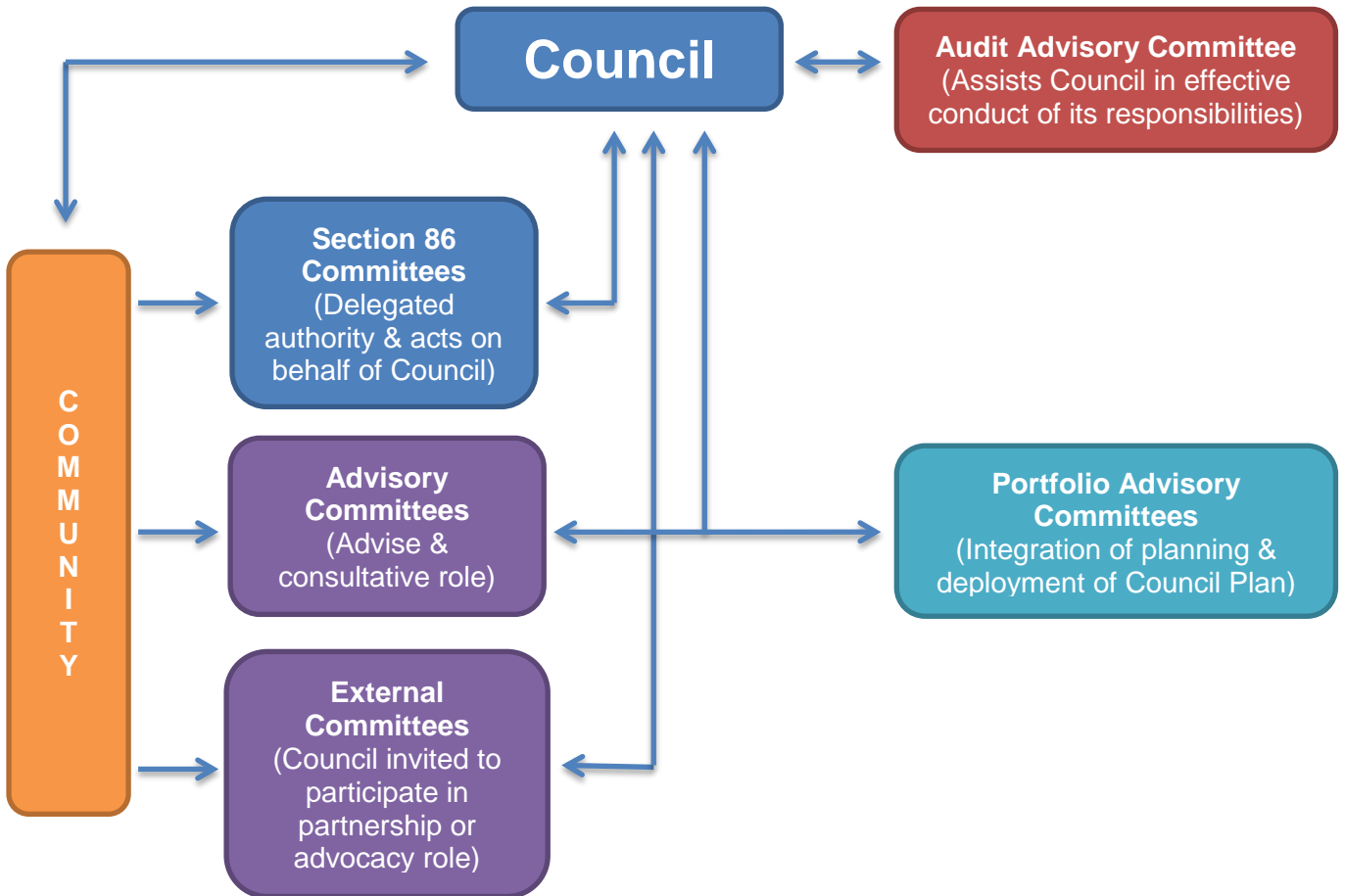
5 DEFINITIONS

Special Purpose Committees: Special Purpose Committees, for the purpose of this policy, are subject to the same provisions of and will have the same responsibilities as if they were an *Advisory Committee* of Council.

Special Committees vs. Advisory Committees: There are some notable differences between a Special Committee and an Advisory Committee and consideration should be paid as to which type of committee is most appropriate in each case.

| Special Committee | Advisory Committee |
|---|---|
| Is a legal entity | Has no legal standing |
| Acts on behalf of Council | Advises Council |
| Is obliged to comply with the relevant sections of <i>the Local Government Act 1989</i> and Ballarat City Council's Meeting Procedure Local Law | Is recommended to comply with the Ballarat City Council's Meeting Procedure Local Law and must conduct its administration as set out in its <i>Terms of Reference</i> |
| Has delegated authority to make decisions committing Council to a course of action and spend money | Advises Council on a particular course of action. All decisions must be deferred to Council |

5.1 Diagram of committee relationships with Council, Officers and the community



6 PROCEDURE AND GUIDANCE NOTES

6.1 SPECIAL COMMITTEES

In accordance with section 86 of the *Local Government Act 1989* (the Act), Council may establish one or more Special Committees. Council defines the purpose and membership of a *Special Committee* as a formally appointed committee established under sections 86-88 of the Act. The Council may formally delegate decision-making powers and responsibility to a *Special Committee* through an *Instrument of Delegation*. This *Instrument* spells out the committee's role and enables it to exercise functions and power of Council, within certain constraints.

6.1.1 Terms of Reference

A standard *Terms of Reference* template creates a common ground for all committees. The *Terms of Reference* will provide a framework within which the committee operates. A template is available from the Risk & Compliance Team. The *Terms of Reference* for a *Special Committee* must:

- Be presented to Council for consideration and adoption at the inception of the committee;
- Include a clear statement of purpose and the committee's objective. Objectives should be supported by measurable outcomes that are reported to Council;
- Be reviewed by the committee every two years and by the Council within 12 months of a general election. Any proposed changes to the *Terms of Reference* resulting from a review must be agreed on by the committee and be presented to the Council for formal approval; and
- Be available on the Council's website, intranet and electronic record system.

The *Terms of Reference* are subject to Council resolution and are not effective until that approval through a resolution has been received and the document is signed and sealed with Council's Common Seal. The Risk & Compliance Team will arrange for Signing and Sealing.

6.1.2 Membership, Period of Membership and Method of Appointment

As per Council's Meeting Procedure Local Law, Councillors are appointed to *Special Committees* annually. Council Officers are appointed to committees at the discretion of the Chief Executive Officer.

A *Special Committee* may comprise solely of Councillors, Officers or other persons or a combination thereof. The most appropriate mix of membership for each *Special Committee* will be determined by the Council at the formation of the *Special Committee*.

Special Committee members are appointed as per the *Terms of Reference*; usually a review of membership occurs every two years. All appointments to *Special Committees* are subject to Council resolution and are not effective until that endorsement has been received via a report to Council.

Council will assist *Special Committee*'s in advertising the opportunity for local residents and user groups to become members of the *Special Committee*. This is done via:

- Placement of a Public Notice in The Courier;
- Placement on Council's website; or
- Placement of a notice relevant to the target of the purpose of the *Special Committee*.

Council may appoint or remove members of the *Special Committees* at any time pursuant to section 86(2) of the Act and in accordance with the *Terms of Reference*. Membership changes need to be adopted by Council. Council Officers are there to provide advice and support to the committee where necessary and unless stated in the Terms of Reference.

Special Committee members are obligated to lodge Returns of Interests that disclose information about personal circumstances that may give rise to conflicts of interests in certain circumstances to ensure compliance with section 81 of the Act.

6.1.3 Delegated Authority and Decision Making

Council must keep a register of delegations to *Special Committees*. Council may, by *Instrument of Delegation*, delegate any of its functions, duties or powers under the Act or any other Act to a *Special Committee*, with the exception of the following powers:

- This power of delegation;
- To declare a rate or charge;
- To borrow money;
- To enter into contracts for an amount exceeding an amount previously determined by the Council;
- To incur any expenditure exceeding an amount previously determined by the Council; and
- Any prescribed power*.

* A prescribed power is the ability to establish rules, laws, guides or directions or to assert a title or right to something on the grounds of prescription.

The formal *Instrument of Delegation* provides a *Special Committee* with the delegated authority to make decisions as if it were Council. The *Instrument of Delegation* will define the *Special Committee's Terms of Reference/purpose*. A decision of a *Special Committee* which does not relate to a matter delegated to that *Special Committee* cannot be given effect to until formally approved by the Council.

The *Instrument* is subject to review within 12 months of a general election. Any proposed changes outside this time will be required to be presented to Council for formal approval or revocation. The *Instrument* is not effective until that approval through a resolution has been received and the document is signed and sealed with Council's Common Seal. The Risk & Compliance Team will arrange for Signing and Sealing.

Subject to section 93A of the Act, the Council's Caretaker Policy and the Councillor Code of Conduct Policy, *Special Committee* acting under delegation given by the Council, must not make a major policy decision during the election period for a general election.

6.1.4 Meeting Procedures including Chairing

In accordance with the Council's Meeting Procedure Local Law, the date, time and place of all *Special Committee* meetings are to be fixed by the Council and reasonable notice (seven days) must be provided to the public.

Meetings are open to the public unless the committee resolves to close the meeting in accordance with section 89(2) of the Act.

The Committee's Councillor Representative will Chair the meeting as per the Terms of Reference. In the absence of the Chair another Councillor Representative will Chair the meeting, or a nominated member. The appointment of a Chairperson or Acting Chairperson of a *Special Committee* shall be in accordance with the Council's Meeting Procedure Local Law and *Terms of Reference*.

6.1.5 Production of Agendas and Minutes

An agenda must be prepared and distributed prior to each meeting of the *Special Committee* at least 72 hours (three business days) before the meeting. The agenda serves to list the matters to be discussed at the meeting in order to keep the discussion focused and to assist with time management of the meeting. The agenda should address meeting formalities such as:

- Time, date, location, meeting name;
- Attendances and apologies;
- Declaration of conflicts of interests;
- Acceptance of minutes from the previous meeting;
- Note of actions from previous meeting;
- Reports (special projects, correspondence, etc.);
- Matters arising not on the agenda;
- Action items from this meeting; and
- Date of next meeting.

The Chairperson must prepare and circulate the minutes of all meetings and forward to the Committee members within 14 days of holding the meeting. Section 93(6) of the *Act* requires that the minutes of the meetings of the *Special Committee* must:

- a) Contain details of the proceedings and resolutions made;
- b) Be clearly expressed;
- c) Be self-explanatory;
- d) In relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process; and
- e) Resolutions made at the meeting must clearly state the intention and effect of the resolution.

The Chairperson must submit the minutes of a committee meeting to the next meeting of the committee for confirmation and adoption. On adoption, the Chairperson at the meeting must sign the minutes and certify that they have been confirmed. The Chairperson must arrange for minutes of each meeting to be kept.

In addition, the minutes are provided to the Statutory Compliance Unit by post, email or by hand to:

City of Ballarat – Statutory Compliance
governance@ballarat.vic.gov.au
PO Box 655
Ballarat, Vic 3353

Agendas and Minutes are to be lodged in and made available on Council's electronic document management system and committees are encouraged to provide this information to the public, unless determined through the committee's *Terms of Reference* or the exception of reports, attachments and details of decisions that are confidential in nature. Where it is determined that minutes will be made available to the public, a copy should be placed on Council's website.

6.1.5.1 Minutes adopted by Council

The minutes, once adopted at the *Special Committee* meeting are to be submitted in a report to Council. The Risk & Compliance Team can provide assistance with writing the report. Administrative Officers in attendance at meetings are responsible for ensuring that Agendas and Minutes of the *Special Committee* are lodged in Council's electronic record management system.

6.1.6 Quorum and Voting Rights

In accordance with section 91 of the Act:

- A quorum must be at least the majority of *Special Committee* members, all of whom shall be members entitled to vote;
- Each member of the *Special Committee of Council* present at a meeting, who is entitled to vote is entitled to one vote;
- Unless otherwise prohibited by the Act, each member of the *Special Committee* present must vote;
- Voting must be by a show of hands;
- Voting at a meeting that is open to members of the public must not be in secret;
- The question is determined by a majority of votes; and
- Subject to subsection (2), if there is an equality of votes the Chairperson has a second vote.

(2) If there is an equality of votes on a question arising under section 87(3) the Committee appointing a Chairperson or 87(4) the Committee appointing a Chairperson when the elected Chairperson is not present, then the matter is to be determined by lot.

In accordance with the *Special Committee Terms of Reference*, all members have a single and equal vote on the Committee, with the Chairperson having a casting vote, if votes for and against are equal.

6.1.6.1 Abstain from voting

The Act has an absence of statutory requirements for Councillors and/or Committee Members to deliberately abstain from voting and accordingly abstain from participating in important decisions.

It must be noted that Councillors, when elected take an oath or affirmation affirming that they will carry out the duties of their position in the best interest of their communities and will faithfully and impartially carry out the powers, functions authorities and discretions vested in them to the best of their skill and judgement.

While no penalties apply where a Councillor chooses to abstain from voting, the decision to do so should not be taken lightly. Not participating in decisions taken by Council can be seen as an abrogation of a Councillor's responsibility to represent the community. Abstentions also serve to undermine the role of Councils in providing governance and leadership through effective decision making.

Although not a requirement of the Act, the meeting minutes should disclose when a Councillor abstains from voting on a matter.

6.1.7 Conduct and Interest Provisions

In performing the role of a *Special Committee* member, a person must:

- Act honestly;
- Exercise reasonable care and diligence;
- Not make improper use of their position; and
- Not make improper use of information acquired because of their position.

Members of a *Special Committee* are required to comply with the interest provisions contained in section 81 of the Act. Unless under section 81(2A) where a Council has exempted a member of a *Special Committee*, all members of a *Special Committee* must complete a primary and ordinary return of interest (Refer to Register of Interests Policy).

Where a member of a Special Committee has a conflict of interest in a matter that is likely to be discussed, the member must declare that interest immediately prior to the matter being considered by the *Special Committee*. Disclosure must include the nature of the relevant interest, and removing themselves from the meeting during the discussion. This must be recorded in the minutes of the meeting.

6.1.8 Confidential and Sensitive Information

Members of Council committees are required to comply with the confidential information provisions contained in sections 77 and 89 of the Act.

It is recognised that members of a *Special Committee* may be in receipt of confidential or sensitive information that should not be disclosed without the consent of the Council or the Chief Executive Officer. Such confidential or sensitive matters may relate to:

- Information that would be of direct financial disadvantage to the Council if made public;
- Politically sensitive information that may impact negatively on the Council if made public;
- Information that is still only partly formulated and may, if released, give a misleading view to the community of what the Council is planning; and
- Any other information that would disadvantage the Council if made public.

Members of a *Special Committee* shall be required to discuss any potential confidential or sensitive issues with the Chief Executive Officer before releasing information to any third parties.

6.1.8.1 Confidential Reasons

Under section 89 of the Act any meeting of Council or a *Special Committee* must be open to members of the public unless subsection (2) applies. There are specific circumstances when a Council or *Special Committee* can resolve that the meeting be closed to members of the public. There are nine circumstances are outlined below:

- Personal Matters;
- The personal hardship of any resident or ratepayer;
- Industrial matters;
- Contractual matters;
- Proposed developments;
- Legal advice;
- Matters affecting the security of Council property;
- Any other matter which the Council or Special Committee considered would prejudice the Council or any other person; and/or
- A resolution to close the meeting to members of the public.

If the *Special Committee* decides that it needs to “consider” or “discuss” any item that falls within one or more of the above categories it must:

Formally resolve to close the meeting to members of the public and “move into camera” (section 89) and state the reason. Once discussion/resolution has been resolved a resolution to “move out of camera”. This must be recorded in the minutes of the meeting.

The determination or outcome of any matters considered or discussed in camera of the *Special Committee* should be resolved in the open session of Council. The Act does not make provisions for resolutions and is only to consider or discuss those matters that fall within the nine matters above, section 89(2). If information contained within the confidential section is required for Council to make a decision, this information is to be provided in a “Confidential Attachment Report” to the Council meeting and a resolution in the report must be to accept that item when considering the recommendation.

Council’s Meeting Procedure Local Law provides more details in relation to confidential information and meeting procedures.

6.1.9 Administrative Support

Administrative support is provided to *Special Committees* by the directorate whose functions are most aligned to the committee.

6.1.10 Dissolution

Special Committees may at any meeting agree to disband and hand back its responsibilities to Council. In the case of this event, Council requires immediate notification in writing of the Committee’s intention before dissolution. Alternatively, if the *Special Committee* does not fulfil its obligations, Council may disband the *Special Committee*. In either case, the Chairperson is obliged to make the following arrangements within one month of disbanding:

- A financial statement must be prepared and presented to the Finance Unit;
- The *Special Committee* bank account must be closed and the balance immediately forwarded to Council; and
- All keys to buildings must be returned to Council.

Dissolution requires a formal resolution of Council. In order for this to occur the Committee must pass a resolution to disband or change its status from a *Special Committee* to an *Advisory Committee* of Council. The Risk & Compliance Team will be able to provide assistance and the following is required:

- All minutes not yet adopted, including the minutes of the meeting disbanding or changing its status need to be attached the Council report;
- Recommendation to endorse that the *Special Committee* disband or change its status from a Section 86 Committee to an Advisory Committee;
- Recommendation to revoke the *Instrument of Delegation*; and
- If changing status, sign and seal the Advisory Committee Terms of Reference.

6.1.11 Reporting

Part 12 of the *Local Government (General) Regulations 2015* requires that Council keep the following documentation and for it to be made available to the public to ensure compliance:

- (c) *the minutes of meetings of special committees established under section 86 of the Act and held in the previous 12 months, other than those minutes relating to a part of a meeting which was closed to members of the public under section 89 of the Act and are confidential information within the meaning of section 77(2) of the Act;*
- (d) *a register of delegations kept under sections 87(1) and 98(4) of the Act, including the date on which the last review took place under sections 86(6) and 98(6), respectively, of the Act.*

6.1.11.1 Financial Reporting

Special Committees are required to provide a copy of their financial accounts to the Finance Unit each year, as soon as practical, after 30 June.

City of Ballarat - Finance
PO Box 655
Ballarat, Vic 3353
Phone: 5320 5625 - Executive Assistant to Director Business Services

6.1.12 Provision of Meals/Refreshments

The provision of meals/refreshments (if required) during the course of a *Special Committee* will be arranged and funded by the portfolio whose functions are most aligned to the committee.

6.2 ADVISORY COMMITTEES

The main function of an *Advisory Committee* is to assist the Council in the engagement and consultative process and provide valuable information to support the decision making of the Council and in turn the objectives of the Council Plan. *Advisory Committees* may be established for a skill-based (Arts), issue-based (Ballarat West), working partnership (Sister City) and/or a community voice (Youth committee). *Advisory Committees* also allow the Council the opportunity to access independent external advice that may be available in the community. An *Advisory Committee* lifespan should be aligned with and be focussed on the Council Plan and Strategy. *Advisory Committees* have no delegated powers and their decision or recommendations do not have standing unless they are adopted in a Council meeting and Council is not bound to take on an *Advisory Committees* recommendation.

6.2.1 Terms of Reference

A standard Terms of Reference template creates a common ground for all committees. The *Terms of Reference* will provide a framework within which the committee operates. A template is available from the Risk & Compliance Team. The *Terms of Reference* for an *Advisory Committee* must:

- Be presented to the Council for consideration and adoption at the inception of the committee;
- Include a clear statement of purpose and the committee's objectives. Objectives should be supported by measurable outcomes that are reported to the Council;
- Be reviewed by the committee biannually and by the Council within 12 months of a general election. Any proposed changes to the *Terms of Reference* resulting from a review must be agreed on by the committee and be presented to the Council for formal approval; and
- Be available on the Council's website, intranet and electronic record system.

The *Terms of Reference* are subject to Council resolution and are not effective until that approval through a resolution has been received and the document is signed and sealed with Council's Common Seal. The Statutory Compliance Unit will arrange for Signing and Sealing.

6.2.2 Membership, Period of Membership and Appointment

As per Council's Meeting Procedure Local Law, Councillors are appointed to *Advisory Committees* annually. Council Officers are appointed to committees at the discretion of the Chief Executive Officer. Council acknowledges that an *Advisory Committee* is likely to have greater influence on Council if a Councillor is an active observer of its business and that the Councillor appointed has an interest in influencing understandings in the chamber of the committee's strategic intentions.

The most appropriate mix of membership will be determined by the Council. The committee may comprise of Councillors and community representatives. The most appropriate mix of membership for each *Advisory Committee* will be determined by the Council at the formation of the *Advisory Committee*.

Members are appointed as per the *Terms of Reference* and usually a review of membership occurs every two years. All appointments to *Advisory Committees* are subject to Council resolution and are not effective until that endorsement has been received via a report to Council. Council will assist *Advisory Committee's* in advertising the opportunity for local residents and user groups to become members of the *Advisory Committee* to ensure a representative cross section of people from the municipality is elected to the committee as appropriate. This is done via:

- Placement of a Public Notice in The Courier;
- Placement on Council's website; and/or
- Placement of a notice relevant to the target of the purpose of the *Advisory Committee*.

Council may appoint or remove members in accordance with the *Terms of Reference*.

Council Officers are there to provide advice and support to the committee where necessary and unless appointed by the Chief Executive Officer, Officers have no voting rights.

6.2.3 Delegated Authority and Decision Making Powers

Advisory Committees act in an advisory capacity only and have no delegated authority to make decisions as if they were the Council. *Advisory Committees* provide advice to the Council to assist them in their decision making.

6.2.4 Meeting Procedures including Chairing

Meetings of *Advisory Committees* shall be held at a time and place determined by the Committee. *Advisory Committees* are not required to give public notice of their meetings and meetings are not required to be open to the public.

The Committee's Councillor Representative will Chair the meeting as per the *Terms of Reference*. In the absence of the Chair another Councillor Representative will Chair the meeting, or a nominated member. The appointment of a Chairperson or Acting Chairperson of an *Advisory Committee* shall be in accordance with the Council's Meeting Procedure Local Law and *Terms of Reference*.

A Committee may determine, with consent of the Councillor representative/s, to appoint another member other than the Councillor representative/s as Chairperson. If the Chairperson is not present at a meeting, any other Councillor representative shall be the appointed Chairperson. In the absence of any other Councillor representative/s, the committee members shall appoint a Chairperson for the purpose of conducting the meeting.

6.2.5 Production of Agendas and Minutes

Agendas and Minutes must be prepared for each meeting of an *Advisory Committee*. The Agenda must be provided to members of the committee at least 48 hours (two business days) before the time fixed for the holding of the meeting.

The Chairperson must arrange for minutes of each meeting to be kept. The minutes of a meeting of an *Advisory Committee* must:

- Contain details of the proceedings and resolutions made;
- Be clearly expressed;
- Be self-explanatory; and
- In relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process.

Minutes must be approved by the chairperson before being published or distributed and then formally endorsed at a subsequent meeting.

The minutes, once adopted at the next meeting are to be submitted to Council via the Statutory Compliance Unit by post, email or by hand to:

City of Ballarat – Statutory Compliance
governance@ballarat.vic.gov.au
PO Box 655
Ballarat, Vic 3353

Agendas and Minutes are to be lodged in and made available on Council's electronic document management system and committees are encouraged to provide this information to the public, unless determined through the committee's *Terms of Reference* or the exception of reports, attachments and details of decisions that are confidential in nature. Where it is determined that minutes will be made available to the public, a copy should be placed on Council's website.

6.2.5.1 Minutes adopted by Council

The minutes, once adopted at the *Advisory Committee* meeting are to be submitted in a report to Council. The Risk & Compliance Team can provide assistance with writing the report.

Administrative Officers in attendance at meetings are responsible for ensuring that Agendas and Minutes of the *Special Committee* are lodged in Council's electronic record management system.

6.2.6 Quorum and Voting Rights

In accordance with the *Terms of Reference* the following apply:

- A quorum must be at least the majority of members that have the right to vote;
- Each member of the *Advisory Committee* present at a *meeting*, who is entitled to vote is entitled to one vote;
- Each member of the *Advisory Committee* present must vote;
- Voting must be by a show of hands;
- Voting at a meeting that is open to members of the public must not be in secret;
- The question is determined by a majority of votes; and
- If there is an equality of votes the Chairperson has a second vote.

Officers provide advice and support to the committee have no voting rights.

6.2.6.1 Abstain from voting

The Act has an absence of statutory requirements for Councillors and/or Committee members to deliberately abstain from voting and accordingly abstain from participating in important decisions.

It must be noted that Councillors, when elected take an oath or affirmation affirming that they will carry out the duties of their position in the best interest of their communities and will faithfully and impartially carry out the powers, functions authorities and discretions vested in them to the best of their skill and judgement.

While no penalties apply where a Councillor chooses to abstain from voting, the decision to do so should not be taken lightly. Not participating in decisions taken by Council can be seen as an abrogation of a Councillor's responsibility to represent the community. Abstentions also serve to undermine the role of Councils in providing governance and leadership through effective decision making.

Although not a requirement of the Act, the meeting minutes should disclose when a Councillor abstains from voting on a matter.

6.2.7 Conduct and Interest Provisions

In performing the role of an *Advisory Committee* member, a person must:

- Act honestly;
- Exercise reasonable care and diligence;
- Not make improper use of their position; and
- Not make improper use of information acquired because of their position.

Where a member of an *Advisory Committee* has an interest or conflict of interest in a matter that is likely to be discussed, the member must declare that interest immediately prior to the matter being considered by the *Advisory Committee*. Disclosure must include the nature of the relevant interest and removing themselves from the meeting during the discussion. This must be recorded in the minutes of the meeting.

6.2.8 Confidential and Sensitive Information

Members of Committees are required to comply with the confidential information provisions contained in Sections 77 and 89 of the Act.

It is recognised that members of an *Advisory Committee* may be in receipt of confidential or sensitive information that should not be disclosed without the consent of the Council or the Chief Executive Officer. Such confidential or sensitive matters may relate to:

- Information that would be of direct financial disadvantage to the Council if made public;
- Politically sensitive information that may impact negatively on the Council if made public;
- Information that is still only partly formulated and may, if released, give a misleading view to the community of what the Council is planning; and
- Any other information that would disadvantage the Council if made public.

Members of an *Advisory Committee* shall be required to discuss any potential confidential or sensitive issues with the Chief Executive Officer before releasing information to any third parties.

6.2.9 Dissolution

Advisory Committees may at any meeting agree to disband. In the case of this event, Council requires immediate notification in writing of the Committee's intention before dissolution. Alternatively, if the *Advisory Committee* does not fulfil its obligations, Council may disband the *Advisory Committee*.

Dissolution requires a formal resolution of Council. In order for this to occur the Committee must pass a resolution to disband. The Statutory Compliance Unit will be able to provide assistance and the following is required:

- All Assembly of Councillor Records not yet adopted, including the Record of the meeting disbanding need to be forward to Statutory Compliance;
- Council report recommendation to endorse that the *Advisory Committee* disband;
- Recommendation to revoke the *Terms of Reference*.

6.2.10 Reporting

As a minimum, *Advisory Committees* are required to prepare a formal report on an annual basis in line with their stated objectives. The report must be formally adopted by the committee and should directly reflect the objectives and the performance measures of the committee as set out in the *Terms of Reference*. The report will be presented to the Council for noting under the relevant portfolio. The committee's *Terms of Reference* may stipulate more frequent reporting.

6.2.10.1 Assembly Record

In addition there is a requirement under section 80A of the Act in regards to requirements to be observed by an assembly of Councillors:

- (1) *At an assembly of Councillors, the CEO must ensure that a written record is kept of:*
 - (a) *the names of all Councillors and members of Council staff attending;*
 - (b) *the matters considered;*
 - (c) *any conflict of interest disclosures made by a Councillor attending under subsection (3).*

Advisory Committees are required to complete an Assembly of Councillor Record that have a Councillor in attendance. The person taking the written record must ensure a copy of the Assembly of Councillors record is sent to the Statutory Compliance Unit.

See Appendix 1 for an example of an Assembly of Councillor Record.

6.2.11 Administrative Support

Administrative support is provided to *Advisory Committees* by the portfolio whose functions are most aligned to the committee.

6.2.12 Provision of Meals/Refreshments

The provision of meals/refreshments (if required) during the course of an *Advisory Committee* will be arranged and funded by the department whose functions are most aligned to the committee.

6.3 EXTERNAL COMMITTEES, BOARDS AND GROUPS

These are community and industry based committees that operate with their own *Terms of Reference* or mandate where the Council has been invited to participate in partnership or as a community advocate. Current examples of external committees are:

- Highlands Regional Waste Management Group;
- Committee for Ballarat; and
- The Regional Rail Link Community Reference Group.

Council does not have any power to enforce operating expectations on external committees. However, there are still some areas that are important to discuss regarding *External Committees*.

6.3.1 Membership, Period of Membership and Appointment

As per the Local Law No.18, Councillors are appointed to *External Committees* annually. Council Officers are appointed to External Committees at the discretion of the Chief Executive Officer.

6.3.2 Delegated Authority and Decision Making Powers

Councillors appointed as members of *External Committees* have no delegated authority to make decisions on behalf of the Council. The role of a Council representative in this function is to represent and reflect the Council's views on any matters under consideration.

6.3.3 Conflict and Interest Provisions

In performing the role on an *External Committee*, a Councillor or Officer must:

- Act honestly;
- Exercise reasonable care and diligence;
- Not make improper use of their position; and
- Not make improper use of information acquired because of their position.

Where the member of the committee has an interest or conflict of interest in relation to a matter in which the committee is concerned, or is likely to be considered or discussed, the member must disclose the interest to the committee before the matter is considered or discussed at the meeting. Disclosure must include the nature of the relevant interest and be recorded in the minutes of the meeting.

6.3.4 Confidential and Sensitive Information

Councillors or officers as members of *External Committees* are required to comply with the confidential information provisions contained in sections 77 and 89 of the Act.

It is recognised that members of an *External Committee* may be in receipt of confidential or sensitive information that should not be disclosed without the consent of the Council or the Chief Executive Officer. Such confidential or sensitive matters may relate to:

- Information that would be of direct financial disadvantage to the Council if made public;
- Politically sensitive information that may impact negatively on the Council if made public;
- Information that is still only partly formulated and may, if released, give a misleading view to the community of what the Council is planning; and
- Any other information that would disadvantage the Council if made public.

Members of a Committee shall be required to discuss any potential confidential or sensitive issues with the appropriate Director before releasing information to any third parties.

6.3.5 Meeting Procedures including Chairing

Councillor representatives on *External Committees* will receive notification of meeting dates and locations together with a meeting agenda. Meetings of *External Committees* will be conducted in accordance with the Terms of Reference, rules and procedures of that committee.

Copies of Agendas and Minutes of *External Committees* are to be forwarded to Mayor and Councillor Support Office.

Administrative Officers in attendance at meetings are responsible for ensuring that Agendas and Minutes of the *Special Committee* are lodged in Councils electronic record management system.

FRIENDS OF GROUPS

Councillors and Council Officers can be invited to attend Friends of Groups but there is no requirement for formal representation. Where possible, Friends of Group representative/s should link with Council's Advisory Committee/s for Council engagement and potential collaboration.

7 COMPLIANCE RESPONSIBILITIES

Managers/Supervisors

Employees

Chief Executive Officer

Councillors

Special Committee, Advisory Committee and External Committee members

8 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy does not impact on any human rights identified in *the Charter of Human Rights Act 2007*.

9 REFERENCES AND RELATED POLICIES

The Local Government Act 1989 and *Local Government (General) Regulations 2015* were referenced during the preparation of this policy.

| | Include - Name, Reference and location of reference |
|----------------------|---|
| Acts | Local Government Act 1989 |
| Regulations | Local Law No.18 – Meeting Procedure Local Government (General) Regulations 2015 |
| Codes of Practice | |
| Guidance notes | The Role and Future of Citizen Committees in Australian Local Government 2013 |
| Australian Standards | |
| Related Policies | Councillor Code of Conduct Employee Code of Conduct Register of Interests Policy (Primary & Ordinary Returns) |

Appendix 1 - Assembly of Councillor Record



ASSEMBLY OF COUNCILLORS RECORD

This record must be completed by the attending Council Officer and returned to the Statutory Compliance Unit within 48 hours after the meeting for recording in the register.

| | |
|--------------------------------|--|
| Description of meeting: | |
| Date of meeting: | |
| Start time: | |
| Finish time: | |

| |
|---|
| Councillors present: [Insert Councillor name] |
| Apologies: [Insert name] |
| Council staff present: [insert name] – [position] |
| Other attendees present: [insert name] |

| | | | | |
|---|---------------------------|-----------------------|-------------|-----------------|
| Conflict of Interests: | | | | |
| Pursuant to Sections 77, 78 and 79 of the <i>Local Government Act 1989</i> (as amended), if a Councillor has a conflict of interest in a matter which is to be considered or discussed at a meeting, the Councillor must, if he or she is attending the meeting, disclose the conflict of interest. | | | | |
| A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken. | | | | |
| [insert name of person(s) declaring the conflict] | [Type & details declared] | Left Meeting [Yes/No] | [Time left] | [Time returned] |

| |
|---|
| Matters Considered: <i>*Provide dots points of matters discussed.</i> |
| <ul style="list-style-type: none"> • [list matters considered] • [list matters considered] • [list matters considered] |

| | |
|-----------------------------|------------------|
| Record completed by: | |
| Signed: | Position: |
| Name: | Date: |