



# TATIARA DISTRICT COUNCIL

# MEETING PROCEDURE CODE OF PRACTICE

**FORWARD**

It is essential that meetings be conducted in a consistent manner and that all participants have a clear understanding of the rules under which they are expected to operate.

This Meeting Code of Practice has been prepared and adopted by Council to assist in ensuring that these objectives are met.

This document has been compiled using the mandatory sections from the Local Government Act 1999 and the Local Government (Procedure of Meetings) Regulations 2013.

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## Interpretations

**Absolute majority** of the members of a Council means a majority of the whole number of members.

"**the Act**" means the *Local Government Act 1999*;

**Adjournment** means the suspension of a meeting or of the discussion of a particular matter to a later time, to a later day, or indefinitely

**Agenda** means a list of items of business to be considered at a meeting.

**Amendment** means an alteration to the wording of a motion – it is not a motion in its own right. The purpose of an amendment is to refine or modify a motion but not to substantially change the intent of the motion or to contradict it.

**Casting vote** is the vote that is exercised by a directly elected Mayor at a Council meeting in the event of an equality of votes on a question for decision.

**Clear days** in the calculation for giving notice before a meeting; the day on which the notice is given and the day on which the meeting occurs will not be taken into account; and Saturdays, Sundays and public holidays will be taken into account.

If notice is given after 5pm on a day, the notice will be taken as given on the next day.

**Council committee** means a committee of a Council established under the section 41 of the Local Government Act and includes a subcommittee.

**Councillor** means a person appointed or elected as a Councillor.

**Deliberative vote** is the vote that expresses an individual's opinion on a question for decision. At a Council meeting all Councillors (other than a directly elected Mayor) have a deliberative vote.

"**deputation**" means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

**Division** means a formal method of voting in which the vote of each councillor is specifically declared and recorded

### **Formal motion means a motion—**

- a) That the meeting proceed to the next business; or
- b) That the question be put; or
- c) That the question lie on the table; or
- d) That the question be adjourned; or
- e) That the meeting be adjourned.

**Guiding Principles** The following principles should be applied with respect to the procedures to be observed at a meeting of a council or a council committee:

- (a) procedures should be fair and contribute to open, transparent and informed decision making;
- (b) procedures should encourage appropriate community participation in the affairs of the Council;
- (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting; and
- (d) procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

**In camera meeting** means a meeting behind closed doors; a meeting from which the public is excluded

**Leave of the Meeting** a vote on whether leave of the meeting is granted may be conducted by a show of hands – but nothing in sub regulation (r3(4)) prevents a division from being called in relation to the vote.

**Member** means a member of the Council or committee (as the case may be).

**Minutes** means the formal record of the occurrences at a meeting and the decisions reached.

**Notice of Motion** means a notice giving the precise words of a motion which it is intended to move at a later time or, more usually, at a later meeting

**Ordinary meetings** means council meetings held at intervals appointed by the council

**Point of Order** means a point raised to draw attention to an alleged breach of the Act or Regulations in relation to the proceedings of a meeting.

**Presiding member** means the person who presiding at a Council or Council committee meeting.

**Principal member means-** the person elected as a representative of the area as a whole and who shall be called Mayor

**Question** means a matter before the meeting on which a decision must be made such as a motion, amendment or request for leave of the meeting.

**Quorum** Means the minimum number which must be present to constitute a valid meeting, see S.368 Local Government Act

**Regulatory activity** means an activity that involves the making or enforcement of by-laws, orders, standards or other controls.

**Right of reply** means the right of the mover to close the debate by making the last speech

**Special meeting** means an additional meeting called for some specific purpose

**Ultra Vires** means a decision is ultra vires when it is beyond the powers of the body purporting to make it

**Written notice** includes a notice given in a manner or form determined by the Council.

## Council Meetings

- (1) There are two types of Council meetings:
  - ordinary Council meetings; and
  - special Council meetings.
- (2) Ordinary Council meetings.
  - (a) Ordinary Council meetings are held at a time and a place determined by a resolution of the Council. This is generally done at the first meeting of a Council after a general election. The exception is the first meeting held after a general election, and in that instance it is the responsibility of the Chief Executive Officer (CEO) to call the meeting.
  - (b) A Council must hold an ordinary Council meeting at least once a month and the meeting may not be held on a Sunday or on a public holiday. If the Council is a municipal Council it may only hold an ordinary Council meeting before 5.00pm if the Council unanimously resolves to do so.
- (3) Special Council Meetings
  - (a) The CEO must call a special Council meeting of the Council at the request of:
    - the principal member;
    - at least three members of the Council; or
    - a Council Committee at which at least three members of the Council vote in favour of making the request.
  - (b) Special meetings of a Council may be held at any time - s82.
  - (c) At the time of making the request for a special meeting the CEO must be provided with the agenda item for the meeting. If an agenda item is not provided the request has no effect.

## Notice of Meetings

### (1) Council

- (a) In the case of an ordinary meeting, the Chief Executive Officer must give each member of the council notice of the meeting at least three clear days before the date of the meeting.
- (b) In the case of a special meeting, the Chief Executive Officer must give each member of the council notice of the meeting at least four hours before the commencement of the meeting. CEO will need to make verbal contact with the Councillor to ensure they are aware of the meeting.
- (c) Notice of a meeting of the council must:
  - (i) be in writing;
  - (ii) set out the date, time and place of the meeting;
  - (iii) be signed by the Chief Executive Officer;
  - (iv) contain, or be accompanied by, the agenda for the meeting.
- (d) Notice may be given to a member of a council under this section
  - (i) personally; or
  - (ii) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
  - (iii) by leaving the notice for the member at an appropriate place at the principal office of the council, if authorised in writing by the member to do so; or
  - (iv) by e-mail advising that the agenda is available electronically for those councillors using I-Pads or
  - (v) by a means authorised in writing by the member as being an available means of giving notice (eg. facsimile transmission).
- (e) The Chief Executive Officer must give notice to the public of the times and places of meetings of the council by causing a copy of the notice and agenda for a meeting to be placed on public display at each office of the council and on Council's website-
  - (i) in the case of an ordinary meeting – at least three clear days before the date of the meeting; or
  - (ii) in the case of a special meeting – as soon as practicable after the time that notice of the meeting is given to members of the council.

### (2) Committees

- (a) Pursuant to section 87 (15) of the Act, section 87 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsection (4) and (7) to (10) of that section provided as follows:
  - (i) that notice of a meeting of the committee may be given in a form determined by the committee after taking into account the nature and purpose of the committee;
  - (ii) that notice need not be given for each meeting separately;
  - (iii) that if ordinary meetings of the committee have a set agenda then notice of such a meeting need not contain, or be accompanied by, the agenda for the meeting;
  - (iv) that it is not necessary for the Chief Executive Officer to ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting.
- (b) Pursuant to section 88(7) of the Act, section 88 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (2), (3) and (4) provided as follows:
  - (i) that public notice need not be given for each meeting separately; and

- (ii) that public notice may be given by displaying a notice and agenda in a place or places determined by the Chief Executive Officer after taking into account the nature and purpose of the committee.

(3) Informal Gatherings and Workshops

Section 90(8) of the Local Government Act allows informal gatherings to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a council meeting.

Informal gatherings, briefing sessions, planning sessions and other discussions captured under this procedure may include:

- Planning sessions associated with the development of policies or strategies
- Briefing or training sessions
- Workshops
- Social gatherings to encourage informal communication between members or between members and staff.

Informal gatherings and discussions of these kinds will be used solely for the purpose of information sharing and not for the purpose of debating issues, building consensus positions or otherwise discharging council's deliberative and decision-making functions.

Informal gatherings will not involve a formal minute taking process. However, in the interests of transparency, a list of informal gatherings including the time/date, attendees and matter(s) discussed will be presented to the next available Council meeting, at the discretion of the Chief Executive Officer.

(4) Notice of Meetings

The CEO must, so far as is reasonably practicable, make available for inspection on the Internet an up to date schedule of the dates, times and places set for meetings of the Council, council committees and of Informal Gatherings and Workshops.

## Agenda and Order of Business

- (1) The Act requires that the notice of all Council and some committee meetings must contain or be accompanied by the agenda for the meeting - s83(3) and s87(8). Agenda is interpreted by the Act as 'a list of items of business to be considered at a meeting'. The Act requires that the CEO must, as far as is reasonably practicable:
- (a) ensure that items on the agenda are described with reasonable particularity and accuracy; and
  - (b) supply to each member of the Council or committee at the time that notice of a meeting is given a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable) - s83(4) and s87(9).
- (2) In the interests of fair, open and accountable decision-making, agendas must indicate clearly the nature of each item of business on the agenda so that interested members of the community are aware of the business to be transacted at a meeting and can obtain information and attend the meeting.
- (3) Agendas for meetings are prepared by the CEO and generally are accompanied by reports and other documentation that provide information and advice to assist in decision-making and performance monitoring.
- (4) Order of Business
- (a) The order of business merely indicates the order in which the items on the agenda will be considered. The Council may amend the order of business as set out in the agenda either by resolution or by leave of the meeting. This should only ever be done for good reason as public attendance may be affected.
  - (b) Although a Council or committee can change the order of business, it is not best practice once the agenda has been made available to the public and should only occur in exceptional circumstances and then by resolution. Members of the public may

be coming at a particular stage in the meeting to hear a particular matter and would not be aware that the order of business had been changed.

- (c) There is no set order of business for Council or committee meetings. It is for the Council or committee to decide the order of business.
- (d) The Regulations address procedures in an order that could suggest a generic order of business for the regulatory requirements —
1. Opening of the meeting
  2. Confirmation of the minutes of previous meeting(s)
  3. Business adjourned
  4. Questions - with and without notice
  5. Petitions
  6. Deputations
  7. Motions on notice
- Other items on the agenda could be—
- Apologies
  - Mayoral report and/or reports by Members
  - Recommendations from Committees
  - Reports from Officers

### General Business and Matters of Urgency

- (1) The inclusion of matters at a meeting on which there has been no public notification, no relevant report from officers and possible subsequent decisions of the Council is not in keeping with the provisions or the tenor of the Act. The practice should be restricted to matters of urgency.
- (2) Regulation 15(2) provides that a member may, with leave of the meeting, raise a matter of urgency. In most circumstances it would be the principal member who seeks leave to introduce an urgent matter to the meeting.
- (3) Late items that the meeting does not resolve to be a matter of urgency should be deferred to the next meeting or a special meeting to allow time for public notification of the matter and for relevant input from officers and due reading time and consideration by members. The Act also provides for calling special meetings to deal with matters of urgency.
- (4) To reinforce the need for accountability and public notification of matters to be considered at meetings, r12(6) gives the presiding member the power to 'refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion'.

### "en bloc" Decision Making

- (1) Legal advice states that a Council should not consider the following matters on an *en bloc* basis:
- matters involving the exercise of a statutory or other power that affects or is likely to affect an identifiable third party's legitimate rights, interests or expectations;
  - matters where a member has indicated a desired to debate or ask a question in respect of the matter;
  - matters which require the formation of a statutorily mandated 'opinion' or 'consideration';
  - matters which require a particular special majority vote;
  - matters which are likely to attract controversy or debate to the extent that an amendment to the motion is likely; and
  - matters where a member has declared an interest in accordance with Section 73 of the Act or may otherwise be 'biased', contrary to the requirements of the common law or Code of Conduct for Council Members
- (2) The use of *en bloc* decision making is best left for routine procedural matters, matters for noting or matters that do not impact on individual third parties.

## Leave of Absence

- (1) A councillor is disqualified from holding civic office if he/she is absent without prior leave of the council from three consecutive ordinary meetings of the council.
- (2) It must be emphasised that the permission for leave must be given in advance and cannot be given retrospectively. There is a need to distinguish between prior leave and apology for non-attendance. Leave of absence is a dispensation from an obligation to attend, whereas an apology is the recognition that the obligation which exists has not been met and a request for absolution.
- (3) The leave of absence referred to in the Act is required to be obtained prior to the meeting. Acceptance of an apology for non-attendance at a meeting is contemporaneous, not prior.

## Dress Code

- (1) Elected Members are expected to afford respect to their official role at meetings, the people they represent and all ratepayers by maintaining a reasonable standard of dress when attending meetings in their elected capacity.

A "reasonable standard of dress" is clothing that is neat, clean and well maintained and appropriate for the work environment.

## Commencement of Meetings

- (1) A meeting will commence after the time specified in the notice of meeting and as soon as a quorum is present.
- (4) A quorum for a meeting is the minimum number of members who must be present for a meeting to be conducted. Dividing the number of members in office by 2, ignoring any fraction, and adding 1 ascertains the quorum for a Council meeting. No business can be transacted at a Council meeting unless a quorum is present.
- (5) If the number of apologies received by the Chief Executive Officer indicates that a quorum will not be present at a meeting, the Chief Executive Officer may adjourn the meeting to a specified day and time.
- (4) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member or members, the Chief Executive Officer, will adjourn the meeting to a specified day and time.
- (5) If a meeting is adjourned for want of a quorum, the Chief Executive Officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- (6) If a meeting is adjourned to another day, the Chief Executive Officer must:
  - (a) Give written notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
  - (b) Give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at all offices of the council.

## Quorums

- (1) A quorum for a Council meeting is a number ascertained by dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one. If a quorum is lost because a member cannot participate, declared an interest, the matter must be adjourned so that the remainder of the meeting may proceed.



- (2) The prescribed number of members of a council committee constitutes a quorum of the committee and no business can be transacted at a meeting unless a quorum is present.

The **prescribed number** of members of a Council Committee is:

- (a) unless paragraph (b) applies—a number ascertained by dividing the total number of members of the committee by 2, ignoring any fraction resulting from the division, and adding one; or
- (b) a number determined by the council.

The Mayor is not automatically a member of all committees. The Council may appoint the principal member as a member of a committee, or as an *ex officio* member of a committee or all committees. In an *ex officio* appointment he/she would not be included in the quorum unless actually present at the meeting.

### Meeting Participation by Telephone

- (1) A Committee Member will be considered as being present at a Council Committee Meeting despite not being physically present at the meeting, subject to the following conditions:
- (a) Written approval to participate in the meeting by telephone or other electronic means has been sought and obtained from the Committee's Presiding Member and confirmed to the Chief Executive Officer not less than 1 working day prior to the scheduled commencement time for the meeting, and;
- (b) The CEO has confirmed prior to the scheduled commencement time of that meeting that the necessary technologies are available to accommodate the Committee Member's participation in the meeting and compliance with the Act, and;
- (c) A Committee Member participating by such means being for the specified meeting only and not for 2 or more consecutive meetings of the Committee, and;
- (d) All Committee Members being able to hear each other Committee Member whilst a Committee Member is participating by telephone or other electronic means, and; "
- (e) All members of the public who may be in attendance at the meeting can hear the discussion between all committee members, and;
- (f) The Committee Member that is participating by telephone or other electronic means expressing their vote on each and every question in a manner that can be identified by all other persons present at the meeting (whether all other persons at the meeting are physically present or present by telephone or other electronic means), and;
- (g) The Presiding Member (or Acting Presiding Member) being authorised to disconnect the Committee Member in the event that the technology causes any disruption or inconvenience to the Committee meeting, and;
- (h) Should the telephone or other electronic connection fail, any attempt(s) to re-connect are made at the discretion of the Presiding Member

### Minutes of Meetings

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the presiding member will:
- (a) initial each page of the minutes, which are to be consecutively numbered; and
- (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.
- (4) The minutes of the proceedings of a meeting must include:
- (a) the names of the members present at the meeting; and
- (b) in relation to each member present:

- (i) the time at which the person entered or left the meeting;
- (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting;
- (c) each motion or amendment, and the names of the mover and seconder;
- (d) any variation, alteration or withdrawal of a motion or amendment;
- (e) whether a motion or amendment is carried or lost;
- (f) any disclosure of interest made by a member;
- (g) any personal explanation given by a member;
- (h) details of the making of an order under subsection (2) of section 90 of the Act (exclusion of public );
- (i) a note of the making of an order under subsection (7) of section 91 of the Act (minutes kept confidential) in accordance with the requirements of subsection (9) of that section;
- (j) details of any adjournment of business;
- (k) a record of any request for documents to be tabled at a meeting
- (l) a record of any documents tabled at a meeting
- (m) a description of any oral briefing given to the meeting on a matter of council business
- (n) any other matter required to be included in the minutes by or under the Act or regulation.

### **Audio Recording of Meetings**

- (1) Members of the press and public are not permitted to make audio or video recordings of Council and Committee meetings without the approval of the Principal Member.

### **Questions**

- (1) Any member may ask a question on notice by giving the Chief Executive Officer written notice of the question at least five clear days before the date of the meeting at which the question is to be asked.
- (2) If notice of a question is given under subregulation (1) -
  - (a) the Chief Executive Officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and
  - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (3) Any member may ask a question without notice at a meeting.
- (4) The Presiding Member may allow the reply to a question without notice to be given at the next meeting.
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.
- (6) The Presiding Member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

### **Petitions**

- (1) A petition to the council -

- (a) Must be legibly written or typed or printed;
  - (b) Must clearly set out the request or submission of the petitioners;
  - (c) Must include the name and address of each person who signed or endorsed the petition;
  - (d) Must be addressed to the council and posted or delivered to the principal office of the council.
  - (e) Should contain the name and address of a contact person.
- (2) If a petition is received, the Chief Executive Officer must ensure that, in the absence of a specific policy of the council, a statement as to the nature of the request or submission and the number of signatures, is placed on the agenda for the next ordinary meeting of the council.
  - (3) Generally the meeting would resolve to receive the petition and may also resolve an action in relation to the request or submission of the petitioners.

### Deputations

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver a written request to the Chief Executive Officer.
- (2) The Chief Executive Officer must transmit the request to the presiding member.
- (3) The presiding member may refuse to allow the deputation to appear at a meeting.
- (4) The Chief Executive Officer must take reasonable steps to ensure that the person or persons who request a deputation are informed of the outcome of the request.
- (5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).
- (6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- (7) A council may refer the hearing of a deputation to a council committee.

### Public Forum

At the start of each Council meeting time will be set-aside (approx 30 minutes) for any member of the public to:

- Address Council on any issue
- Ask questions of Council on any issue

As a guide a maximum of 10 minutes per person is allowed but this is at the discretion of the Presiding Member.

### Conflict of Interest

Elected Members have an obligation under the *Local Government Act 1999* to declare a conflict of interest in any matter discussed at a Council or Committee meeting. Elected Members specific obligations and the consequences for not declaring or correctly dealing with a conflict of interest have been outlined in the LGA's Confidentiality Guidelines. In brief, there are three categories of conflict of interest – material, actual and perceived – which should be dealt with as follows:

- (1) Material Conflict of Interest

Where any of a defined list of persons (substantial list) would gain a benefit, or suffer a loss (whether directly or indirectly, personal or pecuniary) depending on the outcome of the consideration of the matter at the meeting.

Where a material conflict of interest exists, the Member must leave the meeting for all discussion and voting on the item and must not be able to view, hear or participate in any discussion or vote.

The requirements of Conflict of Interest provisions will require the minutes of (all Council and sub)(Committee) meetings to include the following:

- the Member's name
- the nature of the conflict of interest, as described by the Member; and
- if the Member took part in that particular item or remained in the chamber during that item under Ministerial approval

(2) Actual and Perceived Conflict of Interest

**Actual** – where a Member has a conflict (not being a material conflict of interest) between their own interests (whether direct or indirect, personal or pecuniary) and the public interest that might lead to a decision that is contrary to the public interest.

**Perceived** – where from the perspective of an impartial, fair-minded person it could reasonably be perceived that a Member has a conflict of interest in a matter.

Where an actual or perceived conflict of interest exists the Member must inform the meeting of the nature of the interest and how they propose to deal with the conflict of interest (including whether they intend to participate in the meeting for that item).

The requirements of Conflict of Interest provisions will require the minutes of (all Council and sub)(Committee) meetings to include the following:

- the Member's name
- the nature of the conflict of interest, as described by the Member; and
- the manner in which the Member dealt with the actual conflict of interest;
- if the Member voted, how he/she voted;
- how the majority of members voted.

(2) Declaring a Conflict of Interest

A pro-forma Conflict of Interest Disclosure form is annexed to this Code of Practice at **APPENDIX A** Elected Members who wish to declare a conflict of interest in any matter to be discussed at a Council or Committee meeting should do so by completing the form and submitting their completed form to the minute-taker prior to the commencement of the meeting where practicable.

## Motions

- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the Chief Executive Officer at least five clear days before the date of the meeting at which the motion is to be moved.
- (3) A motion, the effect of which, if carried, would be to revoke or amend a resolution passed at any time since the last periodic election of the council must be brought by written notice of motion
- (4) The Chief Executive Officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council. The CEO must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.
- (5) If a motion under sub (3) or (4) above is lost, a motion to the same effect cannot be brought:
  - (a) Until after the expiration of 12 months; or
  - (b) Until after the next periodic election,whichever is the sooner.

- (6) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion, without notice.
- (7) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- (8) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be).
- (9) A motion will lapse if it is not seconded at the appropriate time. Members should not second a motion just for the sake of seconding it or to test the feeling of the meeting. If it is worth debating it is worth seconding.
- (10) A member moving a motion will speak to the motion at the time of moving the motion.
- (11) The seconder shall speak at the time of seconding the motion.
- (12) A member may only speak once to a motion except-
  - (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
  - (b) with leave of the meeting; or
  - (c) as the mover in reply.
- (13) A member who has spoken to a motion may not move or second an amendment to the motion.
- (14) Members can speak for up to 5 minutes either for or against a motion
- (15) A question of clarification asked by a member during the debate, is not taken as having spoken, as long as it is clearly a question and not used as an opportunity to contribute to the debate.

### Formal Motions

- (1) A member who has not spoken in the debate on a question may move a formal motion - r12(12). A member who has spoken in the debate may second a formal motion. A formal motion must be moved, seconded and put to the vote.
- (2) Formal motions are procedural, and are moved/seconded during the course of the debate on a motion and if carried —
  - interrupt (stop) or suspend the debate; or
  - adjourn the debate; or
  - adjourn the meeting.
- (3) If moved, a formal motion must be seconded before it can proceed. It takes precedence and must be put to the meeting without discussion, unless the motion is for an adjournment - r12(15).
- (4) A formal motion does not constitute an amendment to a substantive motion.
- (5) There are five forms of formal motions prescribed in r12(14):
  - (a) that the meeting proceed to the next business – the effect of the motion if successful,
    - in the case of an amendment, is that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment, and
    - in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business;
  - (b) that the question be put - the effect of the motion, if successful, is that debate is terminated and the question (motion or amendment) put to the vote without further debate;

- (c) that the question lie on the table - the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution and, if so retrieved, debate is then resumed at the point of interruption;
- (d) that the question be adjourned - the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at a later time, (at the point of interruption); and
- (e) that the meeting be adjourned - the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of any other business. The meeting is resumed at another time.
- (6) The differences between the formal motion 'that the question lie on the table' and that 'the question be adjourned' are—
- the formal motion 'that the question lie on the table' requires no reason or specific details of time or place for resumption of debate on the matter. If carried the meeting immediately moves to the next item of business, and the question can only be retrieved at a later time by resolution. The effect of the formal motion 'the question lie on the table' (if carried) is a permanent or temporary halt to the debate on the question before the meeting. Any question that lies on the table as a result of a successful formal motion lapses at the next general election. The CEO must report on each question that lapses to the Council at the first ordinary meeting of the Council after the general election - r12(19&20)
  - the formal motion 'that the question be adjourned' must include the reasons for the adjournment and the details of time and place for resumption of the debate - r12(18). The effect of a formal motion for adjournment (if carried) is a temporary halt on the debate for a specific reason to the time and place stated in the formal motion.
- (7) The formal motions 'that the question lie on the table' and 'the question be adjourned' if carried result in the suspension of the debate and resumption of the debate at the point of interruption. This means that a member who has spoken in the debate would require leave of the meeting to speak again and the mover of the motion retains the right of reply.
- (8) If a formal motion is lost – r12(17):
- (a) the meeting will be resumed at the point at which it was interrupted; and
  - (b) if the formal motion was put during debate on a question (rather than at the end of the debate) then a similar formal motion (ie, a motion to the same effect) cannot be put until at least one member has spoken on the question.
- (9) NOTE. A motion to defer a matter is not a formal motion. There is often confusion over this. A motion to have a matter deferred is a substantive motion and must be moved before the Chair has accepted any other motion on a matter. A successful motion to defer a matter postpones consideration of a matter to another time. Generally a member moving that a matter be deferred would include in the motion the reasons for deferral and possibly a request for other action such as a request for further information etc. Similarly a motion to defer a matter is not an amendment to a motion.

### Amendments to Motions

- (1) An amendment to a motion is an alteration to the wording of a motion – it is not a motion in its own right.
- (2) The purpose of an amendment is to refine or modify the substantive motion but not to substantially change the intent of the motion or to contradict it. An amendment could be to insert additional words, delete words or delete and substitute words in the motion.
- (3) The presiding member will not accept a proposed amendment that is a direct negative of the motion. Similarly a proposed amendment that substantially changes the motion or the intent of the motion is not an amendment and should not be accepted by the presiding member.

- (4) A member who has not spoken to a motion may move or second an amendment to the motion.
- (5) An amendment will lapse if it is not seconded at the appropriate time.
- (6) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment), will, in so doing be taken to have spoken to the motion to which the amendment relates.
- (7) If an amendment is lost, only one further amendment may be moved to the original motion.
- (8) If an amendment is carried, only one further amendment may be moved.
- (9) An amendment has no standing on its own – it is not a motion, so:
  - (a) the mover of the amendment has no right of reply in relation to the amendment
  - (b) The right of reply is the prerogative of the mover of the motion even if the motion has been amended a
  - (c) A division can not be called on an amendment because it is not a motion.

#### Variations etc.

- (1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- (2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that motion.

#### The Right of Reply

- (1) At the end of the debate on a motion (including any amendment or variation that takes place as part of that debate), the presiding member will ask **the mover of the motion** if he or she wishes to exercise the right to reply to the debate. In exercising the right of reply the mover must confine the remarks to responding to the issues raised in the debate and not introduce any new material.

#### Addresses by Members, etc.

- (1) A member must not speak for longer than five minutes at any one time without leave of the meeting.
- (2) A member may, with leave of the meeting, raise a matter of urgency.
- (3) A member may, with leave of the meeting, make a personal explanation. An account of any personal explanation will be recorded in the minutes.
- (4) The subject matter of a personal explanation may not be debated.
- (5) The contribution of a member must be relevant to the subject matter of the debate.

#### Voting

- (1) Section 86(5) (for Council meetings) and r27(2) (for Committee meetings) require that a member of Council must vote on a question arising for decision (subject to any requirements of the Act It is not possible for a Council member to abstain from voting at a Council or Council committee meeting.
- (2) A question (motion, amendment, leave etc) arising for decision at a Council meeting is decided by a majority of votes of the members present at the meeting and entitled to vote on the question - s86(4). In most cases the requirement is a simple majority of the members present

and entitled to vote. However there are provisions in both the Act and Regulations that require either a two thirds majority or an absolute majority of the members of Council.

(3) Council

- (a) The presiding member, or any other member, may ask the Chief Executive Officer to read out the question before a vote is taken.
- (b) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- (c) A person who is not in his or her seat will not be permitted to vote on a question.
- (d) A Mayor elected by the people does not have a deliberative vote on a question arising for decision at the meeting but does, in the event of an equality of votes, have a casting vote.

(4) Committees

- (a) Subject to the Act and these regulations, a question arising for decision at a meeting of a council committee will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (b) Each member of a council who is a member of a council committee and who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question arising for decision at that meeting.
- (c) The presiding member of a council committee has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.

## Divisions

- (1) There are two purposes for a division:
  - to achieve a new vote on the question, in which case the previous decision on the question of the motion being 'carried' or 'lost' is set aside; and
  - to achieve the recording in the minutes of the names of the members voting for and against the question
- (2) A division will be taken at the request of a member.
- (3) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- (4) The division will be taken as follows:
  - (a) the members voting in the affirmative will, until the vote is recorded, stand in their places; and
  - (b) the members voting on the negative will, until the vote is recorded, sit in their seats; and
  - (c) the presiding member will count the number of votes and then declare the outcome.
- (5) The Chief Executive Officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).

## Tabling of Information

- (1) A member may require the Chief Executive Officer to table any documents of the council relating to a motion that is before a meeting.



- (2) The Chief Executive Officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

### Adjourned Business

- (1) If a formal motion for a substantive motion to be adjourned is carried:
  - (a) The adjournment may either be to a later hour of the same day, to another day, or to another place; and
  - (b) The debate will, on resumption, continue from the point at which it was adjourned.
- (2) If debate on a question is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.
- (3) Business adjourned from a previous meeting must be dealt with before any new business at the subsequent meeting.

### Short-term Suspension of Proceedings

- (1) If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Code of Practice for a period of time in order to allow or facilitate informal discussion, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Code of Practice (or any part of it) for a period determined by the presiding member.
- (2) The Guiding Principles must be taken into account when considering whether to act under (1) above
  - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
  - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension-
    - (i) the provisions of the Act must continue to be observed;
    - (ii) no act or discussion will have any status or significance under the provisions which have been suspended;
    - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end;
  - (c) The period of suspension should be limited to achieving the purpose for which it was declared;
  - (d) The period of suspension will come to an end if-
    - (i) the presiding member determines that the period should be brought to an end; or
    - (ii) At least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

### Points of Order

- (1) The presiding member may call to order a member who is in breach of the Act or these regulations.
- (2) A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach. The point of order may be taken with regard to any irregularity in the proceedings, for example, that the motion before the meeting lies outside the scope of the notice calling the meeting, that there is no quorum present, that there has been a failure to comply with some rule or regulation, or that abusive or insulting language has been used
- (3) A point of order takes precedence over all other business until determined.

- (4) The presiding member will rule on a point of order.
- (5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.
- (6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.
- (7) A resolution under sub regulation (5) binds the meeting and, if a ruling is not agreed with:
  - (a) the ruling has no effect; and
  - (b) the point of order is annulled.
- (8) If the meeting supports the motion of dissent, the business is resumed and any business or motion that had been ruled out of order by the presiding member is reinstated and dealt with.
- (9) A dissent motion is not a motion of no confidence. It is used either to correct a bona fide mistake on the presiding member's part or to give legitimate effect to the will of the meeting. Persons voting on a dissent motion should do so according to their view of what is correct procedure, and not allow personalities to cloud their judgement.
- (10) Points of Order are not recorded in the minutes

### Chamber Conduct

- (1) The gazetted *Codes of Conduct for Elected Members and for Council staff members* outline general principles in relation to the conduct of Elected Members and staff in carrying out their duties and responsibilities.
- (2) Elected Members and staff will use controlled language and adopt well mannered behaviour in the Chamber and avoid purporting to represent Council on issues that are not yet ratified by Council.
- (3) Elected Members and Council Officers when speaking at a meeting of the Council (other than a member or officer who is ill or infirm) shall stand. Staff will respond to questions from the floor by invitation of the Chair.
- (4) When leaving the Chamber, the Chair will be afforded respect of the position by making appropriate acknowledgment (ie, standing, facing the chair and making eye contact) whilst providing the minute taker the opportunity to record the movement from the chamber.
- (5) Any person wishing to move a motion or amendment or to take part in any discussion or debate should address the presiding member. When the presiding member proceeds to speak, the person speaking should be silent.
- (6) Speakers must keep to the particular matter then before the meeting, whether it be a motion, an amendment, a point of order or a personal explanation. Discussion, which is irrelevant, should not be allowed. Speakers who do not keep to the matter before the meeting, or who are unduly long-winded, shall be brought to order.
- (7) A speaker should not be interrupted unless called to order. The person calling him/her to order shall be heard and the point of order determined, whereupon he/she may be allowed to proceed with his/her subject.

### Interruption of Meetings

- (1) A member of a council or council committee must not, while at a meeting:
  - (a) Behave in an improper or disorderly manner; or
  - (b) Cause an interruption or interrupt another member who is speaking.
- (2) Sub regulation (1) (b) does not apply to a member who is-

- (a) Objecting to words used by a member who is speaking; or
  - (b) Calling attention to a point of order; or
  - (c) Calling attention to want of a quorum.
- (3) If the presiding member considers that a member may have acted in contravention of sub regulation (1), the member must be allowed to make a personal explanation.
- (4) Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting.
- (5) If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution -
- (a) Censure the member; or
  - (b) Suspend the member for a part, or for the remainder, of the meeting.
- (6) A member who:
- (a) Refuses to leave a meeting in contravention of sub regulation (4) ; or
  - (b) Enters a meeting in contravention of a suspension under sub regulation (5),
- is guilty of an offence. Maximum penalty: \$1,250.

### Interruption of meetings by others

A member of the public who is present at a meeting of a council or council committee must not:

- (a) Behave in a disorderly manner; or
- (b) Cause an interruption.

Maximum penalty: \$500.

### Chairing a Meeting

The Presiding Member or, at the request of or in the absence of the Presiding Member, the Deputy Presiding Member presides at meetings of the council.

- (1) If the Presiding Member and the Deputy Presiding Member are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.
- (2) If the Presiding Member and Deputy Presiding Member are both absent at the time designated for the holding of a Council meeting, the first business of the meeting must be the election of an Acting Chair to preside at the meeting.

The election must be conducted:

- (a) By the Chief Executive Officer or, in his/her absence, an employee of the council designated by the Chief Executive Officer to conduct the election; or
  - (b) If neither of them is present at the meeting, or there is no Chief Executive Officer or designated employee, by the person who called the meeting or a person acting on his/her behalf
- (3) The Presiding Member has precedence at any meeting of council. When the Presiding Member rises during a meeting:
- (a) All councillors present at the table who are standing must resume their seats; and

- (b) Every councillor present at the meeting must be silent to enable the Presiding Member to be heard without interruption.
- (4) The functions of a presiding member at a meeting include:
- (a) To receive and put to the meeting any lawful motion that is brought before the meeting;
  - (b) To rule out of order any motion that is unlawful or the implementation of which would be unlawful;
  - (c) In the absence of a councillor who has placed a notice of motion on the business paper, and where no other councillor has moved the motion at the meeting, the presiding member may defer the motion until the next meeting of the council at which the motion can be considered;
  - (d) Where a councillor moves a motion "that the question be now put", the presiding member is required to immediately put the motion to the vote without the motion being seconded, and without debate;
  - (e) To decide the result of a vote on a motion;
  - (f) To prevent any discussion on any reply or refusal to reply to a question put by a councillor to another councillor or a council employee;
  - (g) To maintain order at a meeting, including:
    - (i) calling any councillor to order whenever, in the opinion of the presiding member, it is necessary to do so;
    - (ii) Although it is not normal to do so, the presiding member does have the right to move and second motions

### **Acts of Disorder**

A councillor commits an act of disorder if the councillor, in a meeting of council or a committee of the council:

- (1) Contravenes the Act or any Regulation under the Act;
- (2) Assaults or threatens to assault another councillor or person present at the meeting;
- (3) Moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee or addresses or attempts to address the council or committee on such a motion, amendment or matter that:
  - (a) Insults or makes personal reflections on or imputes improper motives to any other councillor, or
  - (b) Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.
- (4) The presiding member may require a councillor:
  - (a) To apologise for an act of disorder referred to in 3(a) or 3(b) above;
  - (b) To withdraw a motion or an amendment referred to in 3 above, and where appropriate to apologise without reservation to retract and apologise for an act of disorder referred to in 3(a) or 3(b) above.
- (5) The council or a committee may, by resolution, expel from a meeting a councillor who fails to comply with the requirements of the presiding member as indicated above. Such an expulsion does not prevent any other action from being taken against the councillor for the act of disorder concerned.

- (6) If disorder occurs at a meeting of the council, the presiding member may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The council, on re-assembling, must on a question put from the chair, decide without debate whether the business is to proceed with or not. This provision applies to disorder arising from the conduct of members of the public, as well as disorder arising from the conduct of councillors.
- (7) A council may, by resolution, expel a member of the public or a councillor from a council meeting on the grounds that the member is engaging in or has engaged in disorderly conduct.
- (8) If a councillor or member of the public fails to leave a meeting after council has resolved to expel that person, a police officer or a person authorised by the council, may remove the person from the meeting and, if necessary, restrain the person from re-entering the meeting place.

## Public Access to Meetings and Confidential Discussions

### Public Access to Meetings

Public access to Council and Council Committee meetings is guaranteed and encouraged, except where the Council believes it necessary in the broader community interest to exclude the public from the discussion of a particular matter. The public will only be excluded when considered proper and necessary that the need for confidentiality outweighs the principle of open decision making.

This code is intended to provide clear guidance as to why and how the Tatiara District Council may use the provisions in the Local Government Act to restrict public access. It also includes information on the relevant provisions in the Act, adopted on the **use** of these provisions, the **process** that is utilised to restrict public access, identifies the Council contact officer should additional information be required and refers to a process for dealing with any grievances.

### Local Government Provisions

Chapter 6 of the Local Government Act sets out arrangements for meetings and requires that all Council and Council Committee meetings are to be held in public except where special circumstances exist as prescribed in the Act.

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at so much of a meeting as is necessary to receive, discuss or consider in confidence any information or matter listed in subsection (3).
- (3) The following information and matters are listed for the purposes of subsection (2):
  - (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 –
    - 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
    - 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 –
- 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
  - Would, on balance, be contrary to the public interest;
- (k) Tenders for the supply of goods, the provision of services or the carrying out of works;
- (l) 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;
- (m) Information relevant to the review of a determination of a council under the Freedom of Information Act 1991.
- (4) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may:
- a. Cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
  - b. Cause a loss of confidence in the council or council committee.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to:
- (a) A member of the council or the council committee; or
  - (b) Any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order and of the grounds on which it was made.
- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving-
- (a) Members of the council or council committee; or
  - (b) Members of the council or council committee and staff,

Provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) Planning sessions associated with the development of policies or strategies;
- (b) Briefing or training sessions;
- (c) Workshops;
- (d) Social gatherings to encourage informal communication between members or between members and staff.

#### Process for determining if the Public are to be excluded

At the Council or Council Committee Meeting, Elected Members will consider if excluding the public is necessary and appropriate in accordance with the tests contained in section 90(2). These provisions require an assessment to be made of whether a matter may cause damage or distress or confer unfair commercial or financial advantage if it is not considered in confidence.

#### Process to exclude the Public

Before a meeting excludes the public from discussion of a particular matter, the meeting must, **in public**, formally determine if this is necessary and then pass a resolution to exclude the public. The elected members of the Council must reach this decision if the public are to then be excluded from the discussion of that particular agenda item. Once discussion on that particular matter is concluded, the public would then be permitted to re-enter the meeting.

For the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, this matter may be deferred until all other business has been dealt with rather than ask the public to leave the room and wait around for however long it takes until the matter is concluded and then allow the public to return to the meeting room with the possibility of the same process being repeated for a subsequent matter.

#### Approach to the use of Confidentiality Provisions

Any consideration of use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of the grounds for this under section 90(2).

The policy approach of Tatiara District Council is:

- (a) The principle of open and accountable government is strongly supported.
- (b) Confidentiality provisions will only be utilised when considered proper and necessary.
- (c) If a decision to exclude the public is taken, the **grounds** for this are to be communicated to the public, both in the meeting at the time of them being requested to leave and in the Minutes.
- (d) Once a discussion of the matter is concluded, the meeting will then consider if it is necessary to make an order that a document associated with this agenda item remain confidential. In determining this, the meeting shall have regard to the provisions of section 90.

#### Public Access to documents

The Tatiara District Council will only order that a document associated with a discussion from which the public are excluded will remain confidential, if it is considered proper and necessary in the broader community interest. Council can only make such orders in relation to documents that were considered in confidence under section 90.

Once a matter has been dealt with, the Council may order that a document relating to the matter considered in confidence is to be kept confidential. There are some situations in which it is **not** able to order that a document remain confidential (section 91(9)(a)).

Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required which shall include the grounds for confidentiality and the duration of the order of circumstances in which the order will cease to apply or when the order must be reviewed. Whilst Council may consider adopting a 'general' time frame for documents to be



kept confidential, this is not encouraged as care must be taken to consider the relative merits of each individual situation rather than simply adopt a blanket time period.

The Tatiara District Council will include in the resolution whether any delegation to an officer or employee to have authority to revoke the order is to apply and if relevant, any conditions associated with this delegation.

The minutes shall record the relevant grounds and duration of the order and any delegation to revoke the order, should this be applicable.

Please note that under the Local Government Act section 90 – 91(11) inclusive, there are provisions for access to Council documents which essentially mirror the provisions of the Freedom of Information Act.

Any inquiries in relation to the process for seeking access to documents held by the Council should be directed to the Council's nominated Freedom of Information Officer who can be contacted on (08) 8752 1044.

#### Grievances

In the first instance, a grievance about the use of the confidentiality provisions should be raised with the CEO of Council. To ensure all grievances are considered and acted upon in a proper manner, the grievance should be expressed in writing, addressed to the CEO.

If a person remains aggrieved about an action of Council, he/she has the option of seeking to have an external review undertaken by the Ombudsman who is independent. It is hoped that all grievances can be resolved with the Council, but if this is not the case, Council's contact officer (see below) can provide details of how to contact the Ombudsman if required.

In relation to access to documents, the Local Government Act does provide for a range of review mechanisms including the Ombudsman and the Courts where a formal request for access has been made. Some documents are exempt from being required to be made publicly available such as the unreasonable disclosure of information concerning the personal affairs of any person.

#### Information

The designated contact officer for information at Tatiara District Council, Manager Corporate Services, can be contacted on telephone (08) 8752 1044.

#### Draft Resolution

For Council or Committee to go into 'camera' a resolution to exclude the public is required prior to any formal discussions in confidence (example listed).

#### **Draft Resolution:**

- (a) *That under the provisions of Section 90 (2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting with the exception of the Chief Executive Officer, Manager Technical Services, Manager Corporate Services and Minute Secretary, in order to consider, in confidence, a matter on the grounds of Section 90 (3) (to be determined depending on the item).*
- (b) *Further, that all documentation that relates to the above matter be kept confidential, pursuant to Section 91 (7) (b) of the said Act.*
- (c) *Further, that pursuant to Section 91 (9a) of the said Act, that part (b) of this resolution shall cease to apply once contractual arrangements have been finalised.*

*To deal with the following matter ..... (list item to be discussed)*

Once the confidential matter has been concluded, the resolution and any discussions pertaining to that matter are considered confidential.

Notice of recommendations relating to confidential matters being proposed by a committee shall appear as the last item on the next Council agenda.

If the matter is to be discussed by Council, a resolution to exclude the public is required.

At the conclusion of confidential discussions, or, if no "in camera" discussion are required, a motion adopting the relevant recommendation shall be considered.



In the event of the public having been excluded and there being further agenda items to be discussed, a motion such as:

*"That the confidential discussions have concluded and the order to exclude the public may now be lifted."*

shall be necessary to allow the public to re-enter the chamber before the meeting proceeds.

### Availability of Code

A copy of this code will be displayed in a prominent position at the offices of the Council. The Council shall supply a copy of the code if requested. A fee as per Council's Fees and Charges Policy will apply.

### Review of Code of Practice

The Tatiara District Council will review this code on an annual basis to ensure that the principle of open government is being applied in a proper manner. The next scheduled review is due to occur in **October** 2018 however; the Tatiara District Council has the ability to review this code at any time if considered desirable.

### Record of Amendments

DATE	REVISION NO	REASON FOR AMENDMENT
2 <sup>nd</sup> May 2000	Rev: 00	Original Issue A&F Res No: 799
14 <sup>th</sup> June 2000	Rev: 01	Updated Policy due to new Regulations, which were proclaimed and gazetted on 4 <sup>th</sup> May 2000.
13 <sup>th</sup> March 2001	Rev: 02	Updated Policy to advise procedures for confidential minutes of Council and Committee Meetings.
14 <sup>th</sup> October 2003	Rev: 03	Revision of document
12 <sup>th</sup> October 2004	Rev: 04	Annual Revision of document – inclusion of Conflict of Interest clause
11 <sup>th</sup> October 2005	Rev 05	Annual Revision of document
10 <sup>th</sup> October 2006	Rev 06	Annual Revision – inclusion of Public Forum Clause
9 <sup>th</sup> October 2007	Rev 07	Annual Revision of document
14 <sup>th</sup> October 2008	Rev 08	Annual Revision of document
10 <sup>th</sup> November 2009	Rev 09	Annual Revision of document & change Chairman to Mayor
14 <sup>th</sup> December 2010	Rev 10	Annual Revision of document – change to right of reply clause pge 8 - Added in reference to attendance by telephone – pge 4
9 <sup>th</sup> October 2012	Rev 11	Annual Revision of document – Addition of clauses on Dress Code, Chamber Conduct and Audio Recording of Proceedings
8 <sup>th</sup> October 2013	Rev 12	Annual revision of document
14 <sup>th</sup> October 2014	Rev 13	Annual revision of document. Changes to cater for a Mayor rather than a Chair.
12 <sup>th</sup> May 2015	Rev 14	Revision of document relating to Formal Motions and need to have a seconder.
12 <sup>th</sup> April 2016	Rev 15	Amended due to new conflict of interest provisions
14 <sup>th</sup> February 2017	Rev 16	Changed Attendance at Committee meetings by Telephone clause
10 <sup>th</sup> October 2017	Rev 17	Annual Review of document

**APPENDIX A**

**TATIARA DISTRICT COUNCIL  
CONFLICT OF INTEREST DISCLOSURE FORM**

In accordance with Section 74 of the Local Government Act 1999)

1. **COUNCIL MEMBER NAME** .....

2. **FORUM**

TDC Council Meeting

TDC Committee Meeting

Other Forum

3. **MATTERS UNDER CONSIDERATION WHICH YOU WISH TO DECLARE AN INTEREST IN:**

Date of Meeting: ..... Clause or Agenda Item:.....

4. **TYPE OF CONFLICT (Select one)**

**MATERIAL CONFLICT OF INTERESTS**

I consider that I have a material conflict of interest pursuant to section 73 of the Local Government Act 1999 (“the LG Act”). The nature of my material conflict of interest is listed below [ensure sufficient detail is recorded, including the reasons why you (or a person prescribed in section 73 (1) of the LG Act) stands to obtain a benefit or suffer a loss depending on the outcome of the consideration of the matter at the meeting of the Council in relation to the Agenda Item described above]:

***Required Action: I will leave the meeting room (including any area set aside for the public) such that I cannot view or hear any discussion or vote at the meeting, and will stay out of the meeting room while the matter is being discussed and voted on.***

**ACTUAL CONFLICTS OF INTERESTS**

The nature of my actual conflict of interest (pursuant to section 74 of the Local Government Act 1999) is listed below [ensure sufficient detail is recorded, including the reasons why the conflict between your interest and the public interests might lead to a decision that is contrary to the public interest in relation to the Agenda Item described above]:

***Required Action: If a member has an actual or perceived conflict of interest, the Act requires that the member deal with the interest in a “transparent and accountable way”(section 75A (1)) The member must inform the meeting of their interest in the matter, and, if the member proposes to participate in the meeting in relation to the matter, how the member intends to deal with the actual or perceived conflict of interest section 75A (2)). This is of course to be contrasted with the position of a material conflict of interest where the member must immediately remove themselves from the meeting and not return until the matter has been dealt with.***

**PERCEIVED CONFLICTS OF INTERESTS**

The nature of my perceived conflict of interest (pursuant to section 74 of the Local Government Act 1999) is listed below [ensure sufficient detail is recorded, including the reasons why the conflict between your interest and the public interests might lead to a decision that is contrary to the public interest in relation to the Agenda Item described above]:

***Required Action: Make a declaration.***

**Description of Conflict of Interest:** .....

.....

.....

.....

.....

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.....

**Reason why the Conflict of interest is less than significant and does not require further action:**

.....

.....

.....

.....

**5. DECLARATION**

I hereby declare that the above details are correct to the best of my knowledge and I make this conflict of interest in good faith.

COUNCIL MEMBER: ..... DATE: .....

*To be completed and given to Meeting Minute Taker prior to the commencement of the meeting.*