

NSW GOVERNMENT MODEL CODE OF MEETING PRACTICE 2021 FOR LOCAL COUNCILS

Mandatory and Non-Mandatory Updates from previous Model Code 2018

Non- Mandatory (Proposed changes for consideration shown in yellow highlight)	Mandatory (Mandatory changes for adoption shown in yellow highlight)	Meetings of Boards of Joint Organisations (Changes shown in yellow highlight)
	MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW 2021	
	1 Introduction This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the <i>Local Government Act 1993</i> (the Act) and the <i>Local Government (General) Regulation 2021</i> (the Regulation).	
	The Model Meeting Code applies.	
	3 Before the Meeting 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a	

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	councillor or by any other person to another person who is not authorised to have that information.	
	<p><u>Statement of ethical obligations</u></p> <p>3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.</p>	
Document clauses reference numbers renumbered for non-mandatory clauses from 3.33 to 3.34 due to adding of new mandatory clause 3.23 above	Document clauses reference numbers renumbered from 3.24 to 3.32 mandatory clauses due to adding of new mandatory clause 3.23 above	
<p>3 Before the Meeting</p> <p>3.35 Pre-meeting briefing sessions may be held by audio-visual link.</p>		
Document clauses reference numbers renumbered from 3.35 to 3.38 non-mandatory		

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clauses due to adding of new non-manadatory clause 3.35 above		
4 Public Forum		
4.2 Public forums may be held by audio-visual link.		
Document clauses reference numbers renumbered from 4.2 to 4.24 non-mandatory clauses due to adding of new non-manadatory clause 4.2 above		
4.17 Speakers at public forums cannot ask questions of the council, councillors, or council staff.		
4.20 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements		
	5 Coming Together	
	5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.	

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		Note: Clause 5.3 reflects section 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils <u>must not</u> adopt clause 5.3.
	<p>5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.</p>	
	<p>5.12 In either case, the meeting must be adjourned to a time, date, and place fixed:</p>	
<p>5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a</p>		

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<p>natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.</p>		
<p><u>Meetings held by audio-visual link</u></p> <p>5.16 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with</p>		

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<p>the general manager and, as far as is practicable, with each councillor.</p>		
<p>5.17 Where the mayor determines under clause 5.16 that a meeting is to be held by audio-visual link, the general manager must:</p>		
<p>(a) give written notice to all councillors that the meeting is to be held by audio-visual link, and</p>		
<p>(b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and</p>		
<p>(c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.</p>		
<p>5.18 This code applies to a meeting held by audio-visual link under clause 5.16 in the same way it would if the meeting was</p>		

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<p>held in person.</p> <p>Note: Where a council holds a meeting by audio-visual link under clause 5.16, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.</p> <p><u>Attendance by councillors at meetings by audio-visual link</u></p> <p>5.19 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.</p> <p>5.20 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.</p> <p>5.21 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one</p>		
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<p>meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.20.</p>		
<p>5.22 The council must comply with the Health Privacy Principles prescribed under the <i>Health Records and Information Privacy Act 2002</i> when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.</p>		
<p>5.23 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.</p>		
<p>5.24 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be</p>		

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<p>made by a resolution of the council or the committee concerned. The resolution must state:</p> <p>(a) the meetings the resolution applies to, and</p> <p>(b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.</p> <p>5.25 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.</p> <p>5.26 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical</p>		
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<p>capacity does not exist to allow the councillor to attend the meeting by these means.</p>		
<p>5.27 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.</p>		
<p>5.28 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.</p>		
<p>5.29 A councillor must give their full attention</p>		

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<p>to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.</p> <p>5.30 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.</p>		
	<p>Clause 5.16 becomes clause 5.31 if new non-mandatory clauses are inserted from 5.16 to 5.30. Clauses 5.31 renumbered to reflect insert of clauses above to clause 5.34. New mandatory clause 5.34 (replaced previous clause 5.19)</p>	
	<p><u>Webcasting of meetings</u></p> <p>5.34 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.</p>	<p><u>Webcasting of meetings</u></p> <p>5.39 Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.34–5.39. Joint organisations that choose not to webcast meetings may omit clauses 5.34–5.39.</p>

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	<p>5.35 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:</p> <ul style="list-style-type: none">(a) the meeting is being recorded and made publicly available on the council's website, and(b) persons attending the meeting should refrain from making any defamatory statements.	
	<p>5.36 The recording of a meeting is to be made publicly available on the council's website:</p> <ul style="list-style-type: none">(a) at the same time as the meeting is taking place, or(b) as soon as practicable after the meeting.	
	<p>5.37 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.</p>	
	<p>5.38 Clauses 5.36 and 5.37 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.</p>	

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	Note: Clauses 5.34 – 5.38 reflect section 236 of the Regulation.	
	New mandatory clause 5.39 replaces previous mandatory clause 5.22	
	5.39 Recordings of meetings may be disposed of in accordance with the <i>State Records Act 1998</i> .	5.39 Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.34–5.39 . Joint organisations that choose not to webcast meetings may omit clauses 5.34–5.39 .
	Previous Clause 5.23 becomes clause 5.40. Renumbering is reflected from clause 5.40 to 5.43. New mandatory clause 5.44 inserted below.	
	5.44 The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the general manager.	
8 Order of Business for Ordinary Council Meetings		

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<p>8.2 The general order of business for an ordinary meeting of the council shall be: [councils may adapt the following order of business to meet their needs]</p> <ul style="list-style-type: none"> 01 Opening meeting 02 Acknowledgement of country 03 Apologies and applications for a leave of absence or attendance by audio-visual link by councillors 04 Confirmation of minutes 05 Disclosures of interests 06 Mayoral minute(s) 07 Reports of committees 08 Reports to council 09 Notices of motions/Questions with notice 10 Confidential matters 11 Conclusion of the meeting <p>Note: Councils must use <u>either</u> clause 8.1 or 8.2.</p>		
	<p>9 Consideration of Business at Council Meetings</p> <p>9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the</p>	

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	purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.	
	<p>9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.</p>	
	<p>10 Rules of Debate</p> <p>10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.</p>	
	11 Voting	Note: Clause 11.4 reflects section 397E of the Regulation. Joint organisations <u>must</u> adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils <u>must not</u> adopt clause 11.4
	<p>11.7 The decision of the chairperson as to the result of a vote is final unless the</p>	

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	decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.	
	<p>12 Committee of the Whole</p> <p>12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.</p>	
	<p>14 Closure of Council Meetings to the Public</p> <p>14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.</p> <p>Note: Clause 14.7 reflects section 10B(5) of the Act.</p>	
<u>Obligations of councillors attending meetings by audio-visual link</u>		

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14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.		
Renumbering due to new non mandatory clause 14.20 to 14.23		
	<p>15 Keeping Order at Meetings</p> <p><u>Acts of disorder</u></p> <p>15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:</p> <ul style="list-style-type: none"> (a) contravenes the Act, the Regulation or this code, or (b) assaults or threatens to assault another councillor or person present at the meeting, or (c) 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 the committee, or addresses or attempts to address the council 	

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	<p>or the committee on such a motion, amendment or matter, or</p> <p>(d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or</p> <p>(e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.</p> <p>Note: Clause 15.11 reflects section 182 of the Regulation.</p> <p>15.12 The chairperson may require a councillor:</p> <p>(a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e), or</p> <p>(b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or</p> <p>(c) to retract and apologise without reservation for any statement</p>	
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	<p>that constitutes an act of disorder referred to in clauses 15.11(d) and (e).</p> <p>Note: Clause 15.12 reflects section 233 of the Regulation.</p>	
	<p>15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.</p> <p>Note: Clause 15.17 reflects section 233(2) of the Regulation</p>	
<p><u>How disorder by councillors attending meetings by audio-visual link may be dealt with</u></p> <p>15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for</p>		

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<p>the purposes of enforcing compliance with this code.</p> <p>15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.</p>		
	<p>15.25 Without limiting clause 15.18, a contravention of clause 15.24 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.18. Any person who contravenes or attempts to contravene clause 15.24, may be expelled from the meeting as provided for under section 10(2) of the Act.</p>	
<p>New non mandatory clauses 15.21 and 15.22 inserted renumbering from clause 15.23 to 15.26.</p>		
<p>16 Conflicts of Interests</p> <p>16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at</p>		

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<p>the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.</p>		
<p>19 After the Meeting</p> <p>19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:</p> <p>(a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,</p>	<p>19 After the Meeting</p> <p>19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:</p> <p>(a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,</p> <p>(b) details of each motion moved at a council meeting and of any amendments moved to it,</p>	

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	<p>(c) the names of the mover and seconder of the motion or amendment,</p> <p>(d) whether the motion or amendment was passed or lost, and</p> <p>(e) such other matters specifically required under this code.</p>	
	<p>20 Council Committees</p> <p>20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.</p>	
		<p>20.17 A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.</p> <p>Note: Clause 20.17 reflects section 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.</p>
<p><u>Minutes of council committee meetings</u></p> <p>20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a</p>	<p><u>Minutes of council committee meetings</u></p> <p>20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its</p>	

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<p>minimum, a committee must ensure that the following matters are recorded in the committee’s minutes:</p> <p>(a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,</p>	<p>meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee’s minutes:</p> <p>(a)</p> <p>(b) details of each motion moved at a meeting and of any amendments moved to it,</p> <p>(c) the names of the mover and seconder of the motion or amendment,</p> <p>(d) whether the motion or amendment was passed or lost, and</p> <p>(e) such other matters specifically required under this code.</p>					
	<p>22 Definitions</p> <table><tr><td>audio-visual link</td><td>means a facility that enables audio and visual communication between persons at different places</td></tr><tr><td>the Regulation</td><td>means the <i>Local Government (General) Regulation 2021</i></td></tr></table>	audio-visual link	means a facility that enables audio and visual communication between persons at different places	the Regulation	means the <i>Local Government (General) Regulation 2021</i>	
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