

Dealing with Disruptive Behaviours Policy

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Responsible Officer:	Director Corporate, M Spearman
Relevant Legislation:	<i>Intervention Orders (Prevention of Abuse) Act 2009</i> <i>Local Government Act 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i> <i>Public Assemblies Act 1972</i> <i>Summary Offences Act 1953</i> <i>Work Health and Safety Act 2012</i>
Related Policies:	<i>Behavioural Standards for Council Members</i> <i>Code of Practice – Access to Meetings and Documents</i> <i>Code of Practice – Procedures at Meetings</i> <i>Closed-Circuit Television (CCTV) and Recording Policy</i>

1. Introduction

- 1.1 The City of Burnside (the Council) is committed to ensuring that the procedures to be observed at a Council Meeting (which includes a meeting of a Council Committee or Council Information or briefing sessions) contribute to open, transparent, informed and responsible decision-making whilst encouraging appropriate community participation in the affairs of the Council.
- 1.2 Council or Committee Meetings are formal decision-making forums of the Council.
- 1.3 The Council recognises that, at times, members of the community will feel strongly about issues and matters that are before the Council for consideration and decision.
- 1.4 Council Meetings are open to the public and attendance is encouraged, except where the Meeting believes it is necessary in the broader community interest to exclude the public, under section 90 of the *Local Government Act 1999* (LG Act) from attendance at the meeting and, if necessary, decision of a particular matter.
- 1.5 The public will only be excluded from Council Meetings when considered appropriate and necessary in the circumstances, and after considering the provisions set out at section 90 of the LG Act.

- 1.6 The effectiveness and general conduct of a meeting or workshop open to the public depends upon mutual respect, clear and certain procedures and good faith from Council Members and the public.
- 1.7 There can be instances where a member of the public fails to show respect or consideration for the Presiding Member, Council Members, Council staff and/or other members of the public. Such disruptive behaviour makes the conduct of Council business more difficult, reducing the efficiency and effectiveness of the meeting or public forum.
- 1.8 Importantly, disruptive behaviour also denies other members of the public the opportunity to observe, and participate in, Council proceedings and has the potential to cause detriment to any person affected by the decision and to bring into disrepute the integrity of the decision-making function of the Council.
- 1.9 The Council is committed to conducting its business in an effective way. Disruptive behaviour, and/or behaviour which shows disrespect for those involved in the conduct of Council business or other members of the public in attendance, is not acceptable and will not be tolerated.
- 1.10 The Council will not tolerate the interruption of meetings open to the public by members of the public. Such behaviour serves not only to reduce the efficiency and effectiveness of the Council, but also denies other members of the public the opportunity to observe and participate in Council proceedings and processes. It also has the potential to cause detriment to any person affected by the decision and brings into disrepute the integrity of the decision-making of the Council.
- 1.11 While Council Information or Briefing Sessions are not decision making forums of the Council, the principle that Council will not tolerate the interruption of information or briefing sessions open to the public by members of the public is maintained.

2. Strategic Plan Desired Outcomes

Principles: 4. Governing with Integrity

Theme: Spans all Strategic Plan Themes

Goals: Spans all Strategic Plan Goals

Priorities: Spans all Strategic Plan Priorities

3. Our Approach

- 3.1 This Policy outlines the steps for the management of disruptive behaviour by members of the public, at Council Meetings that are open to the public.
- 3.2 This Policy applies to all Council Meetings that are open to the public. Its principles may also be applied to Council Committee meetings and

other Council forums which are open to members of the public at the absolute discretion of the Presiding Member or convenor of that forum.

- 3.3 Protection of democracy, democratic processes and the ability of members of the community to observe and, where appropriate, participate in, Council Meetings free of disruptive behaviour is of foremost concern to the Council.
- 3.4 The Council will take a range of actions designed to reduce the impacts of disruptive behaviour, which may include statutory sanctions, if all other avenues to deal with the disruptive behaviour fail.
- 3.5 Wherever possible any member of the public, who in the opinion of the Presiding Member is exhibiting disruptive behaviour, will be cautioned regarding their behaviour by the Presiding Member, directed to treat the Council Meeting with respect and will be requested to immediately cease such behaviour.
- 3.6 Failure to comply with the direction will result in an escalation of action against that person(s) in accordance with the provisions of this Policy.

4. Legislative Requirements and Corporate Policy Context

- 4.1 The following statutory provisions are relevant considerations in the operation of this Policy, however, are not to be taken to be an exhaustive list of the statutory remedies and/or options available to the Council in dealing with disruptive behaviours.

4.1.1 Local Government Act 1999

4.1.1.1 Section 95 – Obstructing meetings

4.1.2 Local Government (Procedures at Meetings) Regulations 2013

4.1.2.1 Regulation 30 – Interruption of meetings by others

4.1.3 Summary Offences Act 1953

4.1.3.1 Section 7 – Disorderly or offensive conduct or language

4.1.3.2 Section 18A – Public meetings

- 4.2 Under the *Work Health and Safety Act 2012*, the Council has a primary duty of care to ensure, so far as is reasonably practicable, that workers and other people are not exposed to health (which includes psychological health) and safety risks associated with working at, or undertakings of, the Council.

It is reasonably foreseeable that in some situations disruptive behaviour at Council Meetings could impact negatively upon the health and safety of Council staff, Council Members or the public.

5. Interpretation

Council Meeting means a meeting convened and conducted under the provisions of the *Local Government Act 1999*, including formal meetings of the Council, Council Committee meetings, meetings of subsidiaries and Council information or briefing sessions, as well as any other public forum arranged, or managed, by the Council;

Information or briefing session:

- means informal gatherings, briefing sessions, planning sessions and other discussions that are not a formal meeting of the council or council committee to which more than 1 member of the Council or a council committee is invited to attend or be involved in for the purposes of providing information or a briefing to attendees.
- must be conducted in a place open to the public during any period in which a matter that is or is intended to be on the agenda for a formal meeting of the council or council committee for decision is discussed. The Council or the CEO may order that the information or briefing session be closed to the public to be discussed in a closed session in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the LG Act.

Place means any place that a Council Meeting may be held from time to time, and may include (but is not necessarily limited to) a hall, building or room, whether or not such hall, building or room is in the ownership and/or control of the Council;

Presiding Member in relation to a Council Meeting includes any person officiating at, or with responsibility for, the organisation, conduct, or management of the meeting or public forum. At an Information or briefing session, the CEO or nominated Director acts in the place of the Presiding Member.

6. Disruptive Behaviour

- 6.1 Disruptive behaviour is to be assessed on a continuum. It amounts to more than strong emotions or opinions expressed during the course of discussion in a public forum and it is more than the expression of controversial and/or extreme points of view.
- 6.2 Generally, 'disruptive behaviour' is that which interferes with the business of the Council. The persistence, severity and nature of the behaviour are key factors in determining the level of disruptiveness and the degree of tolerance with the perpetrator(s) of the disruptive behaviour and the nature of the action that the Council will take to address the behaviour. Examples include (but are not necessarily limited to):
- 6.2.1 talking when others are speaking;

- 6.2.2 constant interjection, particularly when the Presiding Member or Council Members present at the Council Meeting are speaking, but also when Council staff, consultants or the public are addressing the Council Meeting;
 - 6.2.3 refusal to accede to a Presiding Member's lawful and reasonable instructions, particularly when asked to desist from disruptive behaviour;
 - 6.2.4 verbal badgering;
 - 6.2.5 frequent interruptions (including of a non-verbal nature);
 - 6.2.6 audible mobile phone use in a public forum;
 - 6.2.7 swearing or using derogatory and demeaning language;
 - 6.2.8 unreasonably monopolising public opportunities for discussion and refusal to give up the floor to allow other members of the public to ask questions;
 - 6.2.9 stalking or intimidation;
 - 6.2.10 verbal or physical threats or any other aggressive or threatening behaviour towards either Council Members, Council staff or other members of the public;
 - 6.2.11 erratic, disturbing or otherwise odd or unusual behaviour;
 - 6.2.12 excessive noise-making;
 - 6.2.13 participants appearing to be under the influence of alcohol or illegal drug use; and
 - 6.2.14 physical aggression or threats to other people or property.
- 6.3 The Council notes that some of the above behaviours constitute a criminal offence, and the Council will take appropriate action, as required, in such circumstances, including by calling the South Australia Police (SAPOL) and/or making a report to SAPOL.

7. **Dealing with Disruptive Behaviours**

- 7.1 Decisions about whether disruptive behaviour is occurring, and the appropriate action to take in the circumstances, will be made by the Presiding Member, in accordance with this Policy.
- 7.2 If, in the view of the Presiding Member, the behaviour is considered to be disruptive, the person (or persons) will be directed to cease such behaviour immediately.
- 7.3 Should the behaviour continue, and is, in the view of the Presiding Member, disrupting the orderly conduct of Council business, the Council may adjourn the Council Meeting for a stated period of time. The details

of the adjournment (including the reasons) must be included in the minutes.

- 7.4 During that adjournment the Presiding Member and the Chief Executive Officer (CEO) (or delegate) will discuss the appropriate management of the situation with the person (or persons) involved, advising them of their statutory obligations and requesting that they cease disrupting the Council Meeting.
- 7.5 Council Members will not engage with the person (or persons) involved during this time and will remove themselves from the situation while the Presiding Member and the CEO discuss the matter with the disruptive person(s).
- 7.6 If, after resuming the Council Meeting, the disruptive behaviour continues, the Presiding Member may take one or more of the following actions:
 - 7.6.1 Request the assistance of a member of SAPOL to attend the Council Meeting and remove the offending person(s) pursuant to Section 18A(2) of the *Summary Offences Act 1953*, and/or any other relevant legislative provision, and, in conjunction with the CEO seek to have the person(s) prosecuted for a breach of Section 18A(1) of the *Summary Offences Act 1953*, and/or any other relevant legislative provision that may have been breached in the circumstances.
 - 7.6.2 Adjourn the meeting until such time that a member of SAPOL is available to attend and will remain adjourned until such time as a member of SAPOL can attend.
 - 7.6.3 Adjourn the meeting to another date and time to be determined after a reasonable period of time has elapsed (as determined by the Presiding Member) if a member of SAPOL is unable to attend.
 - 7.6.4 As soon as practicable following the Council Meeting (that has either naturally concluded or has been adjourned), if a member of SAPOL has been unable to attend, the Presiding Member, in conjunction with the CEO, will arrange for a comprehensive report to be made to SAPOL regarding the behaviour exhibited and setting out the identity of the person(s) (if known).
 - 7.6.5 The Council will also consider any other legal avenues that may be open to it, including making application for an intervention order to restrict a person's access to Council land and/or Council meetings as may be appropriate.
- 7.7 In all cases, the Council will, upon the outcome of any successful prosecution or other civil action, seek to recover from the offending person or persons, its full costs in pursuing the matter.
- 7.8 Upon the outcome of any successful prosecution as part of the sentencing process, the Council will in all cases:

7.7.1 make application to the Court for an order restraining the offending person(s) from attending at any Council Meeting for a period of no less than six calendar months; and

7.7.2 make submissions to the Court that a criminal conviction be recorded against the offending person(s).

7.9 Nothing in this Policy prevents a Council Member, Council employee or member of the public from making their own report in relation to disruptive or threatening behaviours to the appropriate public authority and taking any lawful action they consider appropriate in the circumstances.

8. Review and Authority

This Policy will be reviewed in accordance with the Council's Policy and Procedure Framework.

9. Availability

This Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au.

The Policy may be purchased at a fee as set annually by Council.

10. Further Information

For further information about this policy please contact:

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