

Public Excluded Meetings and Workshops Policy

Approved by:	Council
Group:	Corporate Planning and Governance
Responsibility:	Governance
Date adopted:	13 February 2024
Review:	Every 3 years, or as required This policy does not cease to have an effect because it is due for review, or being reviewed.
Community Consultation:	Not Required
Policy Type	Council Internal Operational
Related Legislation:	Local Government Act 2002 (LGA) Local Government Official Information and Meetings Act 1987 (LGOIMA)
Title:	Public Excluded Meetings and Workshops Policy

Purpose

- 1 The purpose of the Public Excluded Meetings and Workshops Policy (Policy) is to:
 - (i) increase the transparency and accountability of the Council's decision-making process, in line with the principles of open and best practice governance and statutory requirements;
 - (ii) establish a clear operating framework to ensure Council meets both the community's expectations and its legal requirements of accountability and transparency when considering whether a matter should be heard or considered in a public excluded session;
 - (iii) uphold the community's trust and confidence in Council's decision-making processes and continuously build greater community awareness and participation in the democratic functions and decision-making processes of Council.

Background

- 2 As part of Council enabling democratic local decision-making and action by, and on behalf of, communities and promoting the social, economic, environmental, and cultural well-being of its communities in the present and for the future¹, it has a legal obligation to conduct its business and meetings in an open and transparent manner ensuring compliance with both the statutory

¹ Refer section 10 Local Government Act 2002
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obligations and intent of the Local Government Official Information and Meetings Act 1987 (LGOIMA).

- 3 Openness and transparency in Council's decision-making processes and in the conduct of its business ensures greater public confidence and democratic participation in the decisions of Council. It also enables Council to explain and be accountable for the consequences of the decisions it makes on behalf of the community it represents.
- 4 LGOIMA, along with guidance from the Ombudsman², provide direction on how Elected Members (EMs), Independent Members and Officers can achieve Council's objective of open and transparent governance. The Policy provides greater detail and guidance on how to implement the Fundamental Principle of openness and transparency.

Fundamental principles

- 5 **Fundamental Principle 1:** To support the open and transparent conduct of Council's business in a manner that is consistent with and complies with the preamble to LGOIMA, which states as follows:

An Act to make official information held by local authorities more freely available, to provide for proper access by each person to official information relating to that person which is held by local authorities, to provide for the admission of the public to meetings of local authorities, to protect official information held by local authorities and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy, and to establish procedures for the achievement of those purposes

- 6 **Fundamental Principle 2:** All meetings and workshops of Councils will be held in open session where members of the public and the media are invited to attend, unless there is good and specific reason to exclude the public and their exclusion is permitted by law.

Scope

- 7 The Policy applies to:
 - (i) Council's Elected Members,
 - (ii) Independent members who are appointed by Council to sit as members of various Council committees, such as the Audit and Risk Committee,
 - (iii) Council Officers
 - (iv) Council Controlled Organisations, their directors and officers when attending meetings or workshops.

Policy structure – two parts

- 8 The Policy is divided into two parts. Part 1 deals with Public Excluded Meetings and Workshops. Part 2 deals with Recording and livestreaming of meetings and workshops. The Policy shall also

² <https://www.ombudsman.parliament.nz/resources/lgoima-local-government-agencies-guide-processing-requests-and-conducting-meetings>

be read in conjunction with the Council's Code of Conduct for Elected Members³, its Standing Orders⁴ and the Ombudsman's Guidance referenced above.

Part 1

Definitions

8 In the context of Part 1 of the Policy the following definitions apply:

Council: refers to Timaru District Council, its Standing Committees, Committees and Community Boards

Elected Members (EMs): the Mayor, Councillors and Community Board Members

Independent Members: unelected persons appointed by Council to sit on its Committees to support EMs in their decision making by bringing independent and expert perspectives

Meeting: as defined in the Local Government Official Information and Meetings Act 1987 (LGOIMA)

Officers: employees of Council, contractors and advisors presenting to a meeting or a workshop

Public: includes bona fide members of the media

Public excluded session: refers to a meeting, or part of a meeting, of Council that is heard in a public excluded session pursuant to section 48 of LGOIMA

Workshop: an interactive session for EMs, independent members and officers to introduce ideas and concepts, and to facilitate information exchanges in an environment which is not a meeting and where no decision is made. For the avoidance of doubt, this policy considers briefings to be a form of workshop.

Policy Statements - meetings

9 The default position is that all meetings of Council will be open to the public.

10 Meetings, or part of a meeting, may only be held in a public excluded session where permitted by LGOIMA and where Council has recorded its reasons for the public exclusion with the requisite particulars and details in compliance with LGOIMA. Providing a forum for free and frank discussion is not a basis for holding a meeting or item in a public excluded session.

11 LGOIMA provides the statutory test for excluding the public from a meeting and the procedure that must be followed to exclude the public from a meeting, or part of a meeting.

12 In accordance with LGOIMA consideration of whether a meeting or an agenda item should be held in a public excluded session must be debated when the meeting is open to the public, and the decision is also to be formally recorded when the meeting is open to the public.

³ https://www.timaru.govt.nz/__data/assets/pdf_file/0017/712151/Timaru-District-Council-Adopted-Code-of-Conduct-2022-27-October-pdf-version.PDF

⁴ https://www.timaru.govt.nz/_data/assets/pdf_file/0007/37429/Timaru-District-Council-Standing-Orders-2022-Final.pdf

- 13 Consideration of whether a meeting, or part of a meeting, should be held in a public excluded session must consider also whether there are any countervailing public interest considerations which favour hearing the material in an open session. The record of the meeting should record this consideration and why the determination on the application of the public interest was made in the manner that it was so made.
- 14 Where a decision of Council is made in a public excluded session, the resolution on the item must, where practicable, state expressly what can be released to the public and in what timeframe.
- 15 As stated at clause 30, below, the decision on whether a meeting, or a part of a meeting, should be held in a public excluded session, rests solely with EMs.
- 16 Where Council is unable to immediately release to the public some or all of the decision and material considered in the public excluded session or set a timeframe for release, the Mayor and Chief Executive jointly are delegated the authority to subsequently review whether it is appropriate for some or all of the report and resolutions to be released. Where the Mayor and Chief Executive jointly form a view that there should be no release of material to the public the report and resolutions must be brought back to Council for its consideration and a decision to be made unless Council has already determined that the material is to remain permanently public excluded. [Note that it is the respective Committee, Standing Committee or Community Board that heard the matter in public excluded that reconsiders releasing the material to the public, although Council reserves the right to overrule the respective Standing Committee, Committee or Community Board decision].
- 17 Council acknowledges there may be occasions where it is appropriate that the decision and/or material is to remain public excluded for an extended or indefinite period of time and that LGOIMA contemplates this, such as when it involves the privacy and or safety of a person. In such circumstances Council must resolve and record with particulars why the matter is to remain in public excluded for an extended or indefinite period of time. Notwithstanding this, each individual LGOIMA request to any such information must be assessed on its own merits each time a request is received. The Mayor and Chief Executive jointly hold a delegation to determine whether to release the requested information in whole or redacted in part.
- 18 Requests for the minutes, reports or other material presented at a publicly excluded meeting or item must be dealt with as a LGOIMA request and in accordance with LGOIMA and the Ombudsman's guidance on requests for information.
- 19 Officers will provide regular reporting (normally as an agenda item at each ordinary meeting) to Council on items released from public excluded and if released in part will specify which parts are released and which remain excluded and the legislative provisions under which the material remains public excluded.

Policy Statements - workshops

- 20 The default position is that Council's workshops will be open to the public and the media. As with meetings, providing a forum for free and frank discussion is not a basis for holding a workshop or workshop item in a public excluded session.
- 21 Workshops can be held for a variety of reasons and provide an opportunity for EMs and Independent Members to meet with Officers outside of the decision-making process to be briefed, provided information, explore options and engage in question and answer sessions.

- 22 A workshop is a session held for the reasons set out in the definitions and no decisions can be made or resolutions passed.
- 23 The test to be followed for determining whether a workshop, or part of a workshop, can be held in a public excluded session is the same test as is applied by LGOIMA for holding a meeting or part of a meeting in a public excluded session.
- 24 Consideration of whether a workshop or part of a workshop is to be held in a public excluded session must be debated and the decision formally recorded when the workshop is open to the public.
- 25 Where a workshop, or part of a workshop, is held in a public excluded session, consideration must be given at the conclusion of the public excluded session to what material can be released to the public and in what timeframe.
- 26 Where Council is unable to release to the public all of the workshop material considered in the public excluded session, it will follow the same procedures as is adopted for meetings and as set out earlier in this policy at clauses 16 and 17.
- 27 Council acknowledges there may be occasions where it is appropriate that material is to remain public excluded for an extended or indefinite period of time, such as when it involves the privacy and or safety of a person. In such circumstances, Council must record with particulars why the matter is to remain in public excluded for an extended or indefinite period of time.
- 28 Requests for the minutes, reports or other material presented at a publicly excluded workshop must be dealt with as a LGOIMA request and in accordance with the Ombudsman's guidance.
- 29 The requirements that apply for notifying a meeting will inform the principles for notifying a workshop, that is the workshop will be publicly notified as soon as practicable and the material made publicly available once it has been prepared and ready for presentation to the workshop.

Role of EMs, Independent Members and Officers

- 30 EMs and Independent Members as the governing body must make the decision on whether a meeting or workshop is to be in a public excluded session.
- 31 EMs and Independent Members must bring an open mind to the consideration of whether a matter for a meeting or a workshop is to be considered in a public excluded session.
- 32 EMs and Independent Members must be particularly alert to the risk of a conflict of interest, or perceived conflict of interest, when considering whether a matter should be heard in a public excluded session.
- 33 Where an EM or an Independent Member identifies a conflict of interest, or a perceived conflict of interest it must be declared and managed in accordance with the relevant provisions in the Local Authorities (Members' Interest) Act 1968 and as required by the Code of Conduct for Elected Members⁵
- 34 Identifying and declaring conflicts of interest, or perceived conflicts of interest, must be recorded in the minutes of the meeting and in the written record of the workshop.

⁵ Timaru District Council "Code of Conduct".
https://www.timaru.govt.nz/__data/assets/pdf_file/0017/712151/Timaru-District-Council-Adopted-Code-of-Conduct-2022-27-October-pdf-version.PDF

- 35 The role of Officers is to advise EM's on the reasons why, and why not, a meeting, or item on the agenda of a meeting, should be considered in a public excluded session. This includes providing advice to EM's as to whether there are any countervailing public interest reasons which might favour having the material considered in an open session.
- 36 To support the decision of the EMs and Independent Members on whether a matter is to be heard in a public excluded session, Officers are to provide professional and impartial advice to EMs and Independent Members in a manner consistent with the responsibilities applying to the Public Service set out in the Public Service Act 2020⁶.

Compliance with the Public Records Act 2005 (PRA)

- 37 At a meeting or workshop of Council the minutes along with any reports and material presented or created constitute a public record and must be managed in accordance with the statutory requirements of the PRA and LGOIMA.

Part 2

- 38 This part of the Policy deals with audiovisual recording and livestreaming of meetings and workshops.
- 39 To support the fundamental principles of the Policy, Council provides a number of mechanisms for attendance and participation at its meetings and workshops.
- 40 Council acknowledges that in addition to attendance in person, audio visual livestreaming and recording offers the best range of options for attendance at its meetings and workshops. Council also acknowledges there are technical and resourcing constraints that makes livestreaming and recording of all meetings and workshops in all instances challenging. Given the challenges of universal livestreaming and recording, Council acknowledges a heightened obligation to ensure it actively facilitates participation where attendance via livestreaming and/or recording is not available.
- 41 The Policy sets out below how Council intends to prioritise recording and livestreaming of its meetings and workshops.
- 42 In the context of Part 2 of the Policy the following definitions apply:
- Committees:** refers to Council's Committees and Sub-committees other than Standing Committees
- Community Boards:** refers to the Community Boards of the Timaru District Council
- Council:** refers to the Timaru District Council
- 43 **Standing Committees:** refers to Committees that Council has nominated as its Standing Committees and which usually meet on a regularly scheduled basis and have more significant decision making delegations than Committees and Sub-committees.

Recording and livestreaming of Council and Standing Committee's meetings and workshops

- 44 Meetings of Council and its Standing Committees are to be livestreamed and recorded. A copy of the recording is to be made publicly available.

⁶ Section 12 Public Service Act 2020; public service principles are politically neutral, free and frank advice, merit based appointments, open government, and stewardship.

- 45 Workshops of Council and its Standing Committees must be audiovisually recorded where they are not able to livestreamed. Any livestreaming of a workshop must also be recorded, and the recording of the workshop must be made publicly available.
- 46 It is the role of Officers to ensure that an adequate record of a meeting or workshop is made, and to make it publicly available immediately. If that is not possible for technical reasons in a particular case, then a publicly available record should be made available as soon as is reasonably possible. It is the role of the governing body to approve the faithful representation of its meetings and workshops.

Recording and livestreaming of Other Committees, and Community Board meetings and workshops

- 47 Meetings of other Committees and Community Boards will be livestreamed and recorded where it is practicable to do so. Any livestreaming of a meeting must also be recorded, and the recording of the meeting must be made publicly available.
- 48 Where livestreaming or recording of a Committee or Community Board meeting is not available, minutes that provide a faithful representation of the meeting and that comply with LGOIMA must be kept and made publicly available.
- 49 Workshops of Other Committees and Community Boards will be livestreamed and recorded where it is practicable to do so. Any livestreaming of a workshop must also be recorded, and the recording of the meeting must be made publicly available.
- 50 Where livestreaming or recording of a Committee or Community Board workshop is not available, minutes, along with any material presented, that provide a faithful representation of the workshop discussion must be kept and made publicly available.
- 51 It is the role of Officers to ensure that an adequate record of a Committee or Community Board meeting or workshop is made, and to make it publicly available immediately. If that is not possible for technical reasons in a particular case, then a publicly available record should be made available as soon as is reasonably possible. It is the role of the Committee or Community Board to approve the faithful representation of its meetings and workshops.

Compliance with the Public Records Act 2005 (PRA)

- 52 At a meeting or workshop of Council, its Standing Committees, Committees and Community Boards the recording, minutes along with any reports and material presented or created constitute a public record and must be managed in accordance with the statutory requirements of the PRA and LGOIMA.

Delegations, References and Revision History					
Delegations					
Identify here any delegations related to the policy for it to be operative or required as a result of the policy					
Delegation	Delegations Register Reference				
Delegation for the Mayor and Chief Executive to jointly determine whether to release public excluded information	TBA				
References					
Include here reference to any documents related to the policy (e.g. operating guidelines, procedures)					
Title	Document Reference				
Ombudsmen guidance for processing requests and conducting meetings	https://www.ombudsman.parliament.nz/resources/lgoima-local-government-agencies-guide-processing-requests-and-conducting-meetings				
Revision History					
Summary of the development and review of the policy					
Revision	Owner	Date Approved	Approval By	Next Review	Doc Ref
1	Strategy and Corporate Planning Manager	13 February 2024	Council	February 2027	#1647368