

# Council Forums

## LOCAL GOVERNMENT OPERATIONAL GUIDELINES

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Department of Local Government  
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## 1. Introduction

1. Over recent years many local governments have introduced procedures that allow elected members and officers to meet and discuss matters relating to the operation and affairs of their local government outside of the formal council meeting framework. This has been done through an informal meeting process that has been given a range of titles including *briefing or information sessions, workshops* and *corporate discussions*. For the purposes of this guideline the term "forum" will be used to encompass such meetings.
2. The forum approach has allowed the ordinary meeting of council to focus on the decision-making needs of the local government. Many local governments that have adopted the forum process in preference to standing committees claim that it has led to better informed elected members and a more efficient and effective decision-making regime. This guideline is designed to assist those local governments that do conduct forums by listing appropriate procedural and behavioural controls. The adoption of such controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent.
3. Local government forums range from one-off events discussing a particular issue through to regular, structured meetings, albeit not convened under the auspices of the *Local Government Act 1995* (the Act). This guideline is intended to address those forums that are held on a regular basis.
4. While acknowledging that regular forums are invaluable and legitimate the Department advises that the conduct of such has generated complaints regarding the potential for a reduced level of transparency in the decision-making process and hence a reduction in accountability to and involvement by the community. It is essential that local governments need to make a clear distinction between forums and the formal debate and decision-making process.
5. It is recognised that local governments may conduct other sessions or workshops which would include items such as team building exercises, strategic planning workshops and community input forums. It is not intended that these guidelines would necessarily be applied to such sessions, but some of the suggested procedural controls may have relevance.
6. Issues relating to council forums that are addressed in these guidelines include:
  - accountability;
  - openness and transparency;
  - probity and integrity;
  - authority for the presiding person;
  - participation by elected members and staff;
  - proposals under Town Planning Schemes;
  - formulating management documents; and
  - forums immediately prior to an ordinary meeting of council.

## 2. Principles of the Act

7. Part 5 of the Act sets out the framework whereby elected members meet as the governing body for the purpose of decision-making on behalf of the local government.
8. It is an intention of the Act that councils conduct business and make decisions:
  - openly and transparently;
  - with a high level of accountability to their community;
  - efficiently and effectively;
  - with due probity and integrity;
  - acknowledging relevant community input;
  - with all available information and professional advice; and
  - with the fullest possible participation of elected members.
9. The Act establishes ordinary, special and committee meetings. Each council must decide the meeting structure it will adopt within the legal framework for it to achieve the most efficient and effective decision-making process. It is a **legal requirement that all decisions made on behalf of the local government are to be made at meetings called and convened under the provisions of the Act.**
10. In addition to ordinary and special meetings, elected members can meet as a committee, membership of which may vary in number from three to all members of council. Committees can discuss matters and make recommendations to the council or, if given delegated authority by the council, can make decisions on its behalf. A council does not need to have committees and can have all matters presented to it directly for decision. A recent trend has been for councils to abolish the system of standing committees or limit the number and/or range of committees and adopt a forum approach.

## 3. Council Forums

11. Local government forums range from a once-only event to discuss and explore a particular issue, a number of sessions to address matters such as a specific project or the compilation of a report for internal or external use, through to forums held at regular intervals with a consistent structure and objectives.
  12. Regular forums run in local governments exhibit two broad categories which we have titled *agenda* and *concept*. They are differentiated by the stage of development of issues which are discussed by elected members and staff. The two types are described below along with the variations in procedural controls and processes suggested for each.
- ### 3.1 Concept Forums
13. Concept forums involve elected members and staff meeting to propose, discuss and formulate philosophies, ideas, strategies and concepts for the development of the local government and the district. Such forums often involve projects that are in the early planning stage and are some time away from being presented to council for decision. In discussing such issues, staff are looking for guidance from the elected members as they research the matter and draft the report. Elected members and

staff are also looking to present ideas and concepts for future consideration. If the response is favourable staff can proceed with their research and eventual report on the matter.

14. Examples of the type of issues concept forums may cover include:
  - current matters of a local or regional significance;
  - matters relating to the future development of the local government;
  - significant revenue-raising requirements or expenditure needs;
  - the development of internal strategic, planning, management and financial documents; and
  - development of the selection criteria and performance objectives for the Chief Executive Officer (CEO).
15. Behind closed doors and in a relatively informal manner are the two notable characteristics of concept forums. Holding such meetings behind closed doors is justified in that many of the ideas and concepts are preliminary and while looking for that creative gem some may be extreme, expensive or impractical and never adopted. Discussion on such proposals in a public forum would be counter-productive. Privacy and informality allows elected members to propose ideas, ask questions and discuss issues for the better understanding of those in attendance. Such forums assist individuals to become better informed and to clarify their views.
16. The privacy and informality of concept forums also has pitfalls including the risk of neglecting proper standards of probity and public accountability. Over time, participants can become too familiar, and therefore more lax, with the procedure and purpose of the meeting. Unless procedures are adopted and rigorously applied to these forums, there is a danger that collective or collaborative decisions may be made, implied and otherwise.

### 3.2 Agenda Forums

17. For proper decision-making, elected members must have the opportunity to gain maximum knowledge and understanding of any issue presented to the council on which they must vote. It is reasonable for elected members to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following ordinary council meetings. The complexity of many items means that elected members may need to be given information additional to that in a staff report and/or they may need an opportunity to ask questions of relevant staff members. Many local governments have determined that this can be achieved by the elected members convening as a body to become better informed on issues listed for council decision. Such assemblies have been termed *agenda forums*. It is considered they are much more efficient and effective than elected members meeting staff on an individual basis for such a purpose with the added benefit that all elected members hear the same questions and answers.
18. To protect the integrity of the decision-making process it is essential that *agenda forums* are run with strict procedures.

## 4. Principles Governing Procedural and Behavioural Controls for Forums

19. Local governments that conduct forums or are considering doing so have the right to implement a forum system that best suits their needs. The principles and associated procedures set out below, if adopted by local governments when conducting forums, will ensure that all requirements of accountability, openness and transparency are satisfied.
  20. The identified principles and associated procedures are accountability, openness and transparency, probity and integrity, authority for the chair and meeting notification. Each of these is explained below.
- ### 4.1 Accountability
21. The Act requires that ordinary and special council meetings and committee meetings that have delegated authority must be open to the public. Most local governments also open committee meetings even where there is no delegated authority. This openness allows the community to view the decision-making process from the time an issue is first presented to elected members through to the final decision.
  22. There must be no opportunity for a collective council decision or implied decision that binds the local government to be made during a forum.
  23. Agenda forums should be for staff presenting information and elected members asking questions, not opportunities to debate the issues. A council should have clearly stated rules that prohibit debate or vigorous discussion between elected members that could be interpreted as debate. Rules such as questions through the chair and no free-flowing discussion between elected members should be applied.
  24. If there is minimum debate in the ordinary meeting because the elected member attitudes have been established through the item being thoroughly canvassed in the *agenda forum* then the community is denied the opportunity to witness any debate and understand how the council reached its decision. Other concerns relate to elected members agreeing on movers, seconders and/or amendments. Such an approach must not be allowed by the council whether the *agenda forum* is open or closed to the public but a closed forum will almost certainly generate a perception by the community of secret meetings where the decisions are made beyond public scrutiny.
  25. Councils, when considering conducting closed forums, need to consider their reasons for justification against the likely damage to their public standing from the perception of secrecy. A policy that the forums will generally be open to the public will make a significant contribution to the community perception of council accountability. A clearly delineated distinction between *agenda* and *concept* forums is important for these reasons.
- ### 4.2 Openness and Transparency
26. A significant strength of local government is the openness and accessibility of its processes to the community. In conducting forums each local government should make a conscious decision to promote the community perception that it embraces the concept of openness and transparency. Therefore, whenever appropriate, forums should be open to the public.



#### 4.3 Probity and Integrity

27. The legislation provides that in ordinary meetings and committee meetings elected members must disclose conflicts of interest and exclude themselves from proceedings where they have a financial interest.
28. Disclosure in forums is a matter of ethics. The disclosure requirements only apply to meetings that are convened under the provisions of the Act. Elected members can legally participate at forums without being in breach of the legislation even where they have a clear financial interest or conflict of interest. Such participation is ethically unacceptable and is clearly at odds with the probity and accountability principles of the Act and codes of conduct. It is essential that councils adopt standards for forums that stipulate that disclosure rules applying to meetings constituted under the Act also apply at all forums. Disclosure should lead to an individual departing the forum.

#### 4.4 Authority for the Chair

29. Many councils have established a forum process without specifying how the forums should be chaired and what authority the chair is given to control proceedings. In some local governments, the CEO chairs the forums in certain circumstances. This latter approach is not supported because it confuses the roles and relationships established in the Act.
30. It is recommended that the mayor or president or, if appropriate, another elected member, chairs all forums that involve elected members. Properly managed forums rely on strength and leadership from the chair. Therefore, a forum's chair should be supported by established rules similar to the standing orders that apply to formal meetings.

#### 4.5 Meeting Notification

31. The provisions of the Act are designed to ensure that members are given timely notice of, and information for, council and committee meetings. Formal provisions do not apply to forums but the principles remain the same. Adequate notice needs to be given of the time, location and content of the forum.
32. The forum process is most successful in those local governments where forums are held on a regular basis such as on the alternative weeks to the ordinary council meeting (where they are held fortnightly) or a week before the ordinary council meeting. By setting the dates for forums well in advance, elected members, staff and the community can plan for their attendance.
33. Forums that are organised without adequate notice or a proper agenda are often poorly attended and inefficiently run. This will be detrimental to the purpose of the forum.

### 5. Particular Issues of Concern in the Forum Process

34. There are a number of concerns relating to the content and conduct of forums. These are set out below. Councils need to be aware of these and take action to overcome the concerns if such apply to them.

#### 5.1 Dealing With Proposals Under the Town Planning Scheme

35. The discretion available to council when making decisions under the Act is not always available when making decisions under town planning legislation. When a council is dealing with town planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an elected member the role of a planning commissioner. Council is not only constrained by the conditions of its Town Planning Scheme but also by the relevant State Acts.
36. Decision-making in town planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The elected member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow elected members. These same comments apply whether councils do or do not work with specialist planning committees. Elected members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from the developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker.

37. Councils will often have briefings relating to development issues and these are important in terms of the elected members becoming fully informed on the matter on which they have to vote. The nature of the decision means that briefing sessions involving planning matters should be conducted with the strictest of rules. There should be no implication of debate between elected members; the session should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an elected member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision-makers are privy to that information.

#### 5.2 Formulating Management Documents

38. Many local governments prepare their management documents, such as budgets, principal activity plans and policy manuals, through a forum process. In many cases this involves a number of forums to



which all elected members are invited and the public are excluded. Such forums are not set up under the auspices of the Act. There are no formal decisions made as in due course the documents are adopted at a formal meeting of council. Nevertheless, as the forums proceed and the document is developed, some issues are included, some are discarded and others may need further research by staff. If records of the matters discussed at the forums are not kept, development stages of the documents will be uncertain and hence any orderly progress inhibited. Additionally, the process may lack accountability and the probity of elected members and staff could be challenged. Change of membership of the group by either staff or elected members would again place doubt on the validity of the process.

39. A more suitable procedural process for the development of management documents would be the formal establishment of a committee under the Act with that assigned purpose. Although the committee meetings, if no power or duty has been delegated to the committee, are not required by legislation to be open to the public, the integrity of the process is protected by the legislative requirement for the agenda and minutes to be available for public inspection. Such committees, upon completion of their assigned task(s), could be wound up or reconvened the following year when the task was again required. Examples would be a committee reviewing standing orders and a "Budget Committee". The former would be wound up upon submission of its report to council. The "Budget Committee" would be an ongoing but occasional committee which would meet each year from (say) March to early July. Some committees could have a select and limited membership whereas others (such as the budget committee) could include all elected members.

### 5.3 Forums Immediately Prior to an Ordinary Meeting of Council

40. Some local governments hold forums immediately prior to ordinary council meetings. Anecdotal evidence suggests that in discussing the agenda of the forthcoming meeting at such forums implied decisions may be made. This familiarity with the issues and known attitudes can lead to debate at the ordinary council meeting being stifled or non-existent much to the chagrin of the public who are not privy to the earlier discussions. Forums held immediately prior to ordinary council meetings cause more complaints of secret meetings and predetermined decisions than any other type of forums.
41. Pre-meeting forums may be beneficial where an elected member has additional or alternative information to that contained in a staff report which may be controversial or cause problems within the ordinary meeting at the time the item is discussed. Certainly, it is an advantage for the CEO, council and particularly the presiding member to be aware of potential problems in the forthcoming ordinary

meeting. While a pre-meeting forum provides the opportunity to inform others of the potential problem it would be preferable to raise the matter with likely concerned parties such as the presiding member, CEO and reporting officer much earlier than immediately before the meeting. Early advice will give those concerned the opportunity to undertake action to address the identified problems.

42. It is recognised that with many local governments, especially those that are in rural locations, the timing of the pre-meeting forum is understandable in that the elected members can only get together once a month because of travel time and they need an opportunity to discuss issues with the freedom of a forum.
43. After consideration of these issues, it is recommended that if a council determines that the only time available for a forum is prior to an ordinary council meeting and it is to be closed to the public, then it be established as a *concept forum* and reference to the forthcoming agenda should be prohibited unless a special circumstance is conveyed to the presiding member. An example of a special circumstance would be information additional to, or contradicting the staff report which is likely to lead to non-adoption or significant variation of the recommendation and it has not been possible to convey such information at an earlier time. Adoption of the *concept forum* approach means elected members needing additional information or explanations from staff on forthcoming agenda items will have to make alternative arrangements to meet their requirements.
44. The adoption of such rules on pre-meeting forums should be conveyed to the public. Advice of the conducting of such a forum and its general content at the ensuing ordinary meeting will reinforce the openness and accountability of council.

## 6. Forums that Incorporate Both Concept and Agenda Items

45. Many local governments will run only one forum and it will cover both agenda items to be addressed at the next council meeting and wide-ranging concept issues. It is suggested that the different requirements of the two types are recognised and they be categorised as such in the forum agenda. The most important aspect is that the presiding person apply appropriate procedures regarding debate and discussion between elected members when agenda items are being covered.
46. Such forums should also be open to the public.

## 7. Model Procedures for Forums

47. Before introducing, or continuing with forums, councils have a responsibility to weigh carefully the risks as well as the benefits associated with such a

process and consider if there are better, alternative ways of achieving the desired outcomes.

48. Councils that hold forums should adopt meeting rules and processes to ensure that proper standards of probity and public accountability are adhered to. Particular emphasis must be placed on ensuring that there is no decision-making during these forums and that this is rigidly enforced.

#### 7.1 Procedures Applying to Both Concept and Agenda Forums

49. The Department recommends that councils adopt a set of procedures for both types of forums which include the following:-
- Dates and times for forums should be set well in advance where practical.
  - The CEO will ensure timely written notice and the agenda for each forum is provided to all members.
  - Forum papers should be distributed to members at least three days prior to the meeting.
  - The mayor/president or other designated elected member is to be the presiding member at all forums.
  - Elected members, employees, consultants and other participants shall disclose their financial and conflicts of interest in matters to be discussed.
  - Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a forum relating to their interest and leave the meeting room.
  - There is to be no opportunity for a person with an interest to request that they continue in the forum.
  - A record should be kept of all forums. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures/returns.

#### 7.2 Procedures Specific to Concept Forums

50. The Department recommends that councils adopt specific procedures for *concept forums* which include the following:-
- Concept forums may be open to the public when an issue is being discussed that council believes would benefit from public awareness and debate.
  - Discussion between members is to be limited to those issues which are in the preliminary development stages. Items already listed on a council meeting agenda are not to be discussed.
  - As discussion items are not completely predictable there is to be some flexibility as to disclosures of interest. A person may disclose an interest at the time discussion commences on an issue not specifically included on the agenda.

#### 7.3 Procedures Specific to Agenda Forums

51. The Department recommends that councils adopt specific procedures for *agenda forums* which include the following:
- Agenda forums should be open to the public unless the forum is being briefed on a matter for which a formal council meeting may be closed.

- Items to be addressed will be limited to matters listed on the forthcoming agenda or completed and scheduled to be listed within the next two meetings (or period deemed appropriate).
- Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed.
- All questions and discussions will be directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.

## 8. General Discussions in Councils Without Forums

52. Travel and time constraints mean that many councils can convene for a limited time; for many, only one day per month. As a result, some local governments have continued with the traditional ordinary meeting format where the decision-making is combined with wide-ranging discussion on other matters. A major problem with this approach is that the wide-ranging discussions result in meetings continuing for long periods of time.
53. There are benefits to elected members, the public and the staff if the issues requiring decision are dealt with during one continuous stage early in the meeting.
54. Elected members can have more effective broad ranging discussion during the same time frame as the traditional council meeting with a revised structure. It is suggested a better format would be for the ordinary meeting to be closed as soon as the required decisions have been made. The general discussions would then be pursued in a *concept format* environment. The advantages of this approach are the opportunity for councillors to discuss issues of concern in an informal environment.

## 9. Summary

55. With most local governments, elected members need opportunities to discuss issues outside of the formal ordinary meeting process. The Department acknowledges this approach because those elected members that have the maximum opportunities for input will obtain the greatest satisfaction emanating from their time in local government.
56. The opportunity for input can be best gained through forums or committees of the full council.
57. Councils that wish to hold forums of either the *concept* or *agenda* type are encouraged to adopt rules and processes that are in line with these guidelines. This will assist with openness and accountability, minimise public criticism and lead to a more effective and efficient local government.

### Further Information

For more information about these guidelines, contact the Local Government Support and Development Branch of the Department of Local Government and Regional Development on 9217 1500 or e-mail [lgd@dlgrd.wa.gov.au](mailto:lgd@dlgrd.wa.gov.au).

These guidelines are also available on the Department's website at <http://www.dlgrd.wa.gov.au>.