

Provisions to be included in City of Unley Code of Practice - Procedures at Meetings

This document will form an Addendum to the City of Unley Code of Practice – Procedures at Meetings to facilitate the requirements of *Electronic Participation in Council Meetings Notice (No 1) 2020* and should be read in conjunction with both documents. Where relevant, provisions in this Addendum will replace provisions in the Code of Practice – Procedures at Meetings.

To be inserted as a new section following “Introduction”

PUBLIC HEALTH EMERGENCY: ELECTRONIC PARTICIPATION IN COUNCIL MEETINGS

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (Notice No 1) varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

For the avoidance of doubt, save for the alterations to the Code of Practice as set out below, this Code of Practice otherwise applies to all meetings of the Council.

To be included in Section 3 - Interpretation

“electronic means” includes a telephone, computer or other electronic device used for communication.

“regulations” means the *Local Government (Procedures at Meetings) Regulations 2013*.

“disconnection of the electronic means” includes:

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

“live stream” means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;

Delete existing clause (4) and insert

- (4) A vote on whether **leave of the meeting** is granted may be conducted by:
- (a) a show of hands; or
 - (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

(but nothing in this sub-clause prevents a division from being called in relation to the vote).

- (5) For the purposes of sub-clause (1), a reference to “appear personally” includes to appear by electronic means.
- (6) For the purposes of these regulations, a member participating in a meeting by electronic means is taken to be present at the meeting provided that the member—
- (a) can hear all other members present at the meeting;
 - (b) can be heard by all other members present at the meeting; and
 - (c) can be heard by the person recording the minutes of the meeting.
- (7) Where:
- (a) a Council member is to participate in a Council meeting by electronic means; and
 - (b) the electronic means has the functionality to allow the Council member to participate in the meeting by being heard but not seen or by being both seen and heard; and
 - (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

(8) Suspension of other Inconsistent Provisions

- (a) To the extent that any other discretionary provision of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.
- (b) In circumstances where a provision is suspended under this paragraph, the presiding member may give directions to a member of the Council in respect of an alternative method of compliance with the suspended provision.
- (c) Any member who disagrees with a direction of the presiding member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

To be included in Section 6 – Discretionary Procedures

- (3a) Without limiting sub-clause (3), a council may at any time, by resolution supported by the prescribed number of members of the council entitled to vote on the resolution, alter a code of practice to facilitate participation by council members in council meetings by electronic means.
- (3b) For the purposes of sub-clause (3a), the prescribed number of members of a council 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.

Delete existing Clause (7) and substitute:

- (7) Clause 12(4) does not apply to a motion under sub-clause (3) or sub-clause (3a).

To be included in Section 7 – Commencement of Meetings and Quorums

Insert:

- (0) Members of the Council may participate in a meeting of the Council by electronic means.

Insert:

- (1a) A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.

Delete sub-clause (7)(b) and substitute:

- (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 published on a website determined by the chief executive officer.

To be included in Section 8 – Minutes

- (3a) For the purposes of subregulation (3), the presiding member may initial or sign the minutes in hardcopy or electronically.
- (4b)(iii) The minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

Example:

The following are examples of methods of attendance:

- (a) physical attendance;
- (b) by an audio-visual link;
- (c) by an audio link;
- (d) by telephone.

To be included in Section 10 – Petitions

- (1) A petition to the council must—
 - (a) be legibly written or typed or printed; and
 - (b) clearly set out the request or submission of the petitioners; and

- (c) include the name and address of each person who signed or endorsed the petition; and
- (d) be addressed to the council and delivered to the principal office of the council via:
 - email (pobox1@unley.sa.gov.au) or
 - post (PO Box 1, Unley SA 5061).

To be included in Section 11 – Deputations

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council via:
 - email (pobox1@unley.sa.gov.au) or
 - post (PO Box 1, Unley SA 5061).
- (4a) A person or persons wishing to appear as a deputation at a meeting may appear by electronic means.
- (4b) The Chief Executive Officer will (with respect to a request that has not been refused), when informing the person or persons who requested the deputation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.

To be included in Section 16 – Voting

- (2a) A vote in relation to a question for decision before the Council may be taken:
 - (a) a show of hands; or
 - (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.
- (5) In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Delete existing Clause (4) and insert:

- (4) Sub-clause (3)—
 - (a) may be varied at the discretion of the council pursuant to Clause 6;
 - (b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act; and
 - (c) is varied in relation to a member participating in a council meeting by electronic means such that the reference to “not in his or her seat” is taken to include a disconnection of the electronic means.
- (5) In this Clause —

disconnection of the electronic means includes—

 - (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
 - (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;

- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

To be included in Section 17 – Divisions

Delete sub-clause (3) and substitute:

- (3) A division is taken as follows:
 - (a) except for a member participating in a meeting by electronic means which has audio only:
 - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places;
 - (ii) the members voting in the negative will, until the vote is recorded, sit in their seats;
 - (iii) the presiding member will count the number of votes and then declare the outcome;
 - (b) where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.