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IMPLEMENTATION OF THE REVISED MEETINGS PRACTICE NOTE

The Division of Local Government, Department of Premier and Cabinet issued the revised and updated *Practice Note 16 – Meetings Practice* on 31 August 2009.

The Practice Note was developed to assist councillors and staff conduct council and committee meetings in accordance with best practice standards.

The Division has been monitoring feedback on the revised Practice Note. The following information is now provided to answer some of the more frequently asked questions arising out of the contents of the revised Practice Note.

Questions at Council Meetings Generally

The opportunity to raise questions at council meetings should not be abused. Councillors should bear in mind that there may well be other effective avenues of obtaining information, for example through the general manager outside the formal meeting cycle.

As in the case of putting forward notices of motion, councillors must, in submitting questions, balance their civic responsibility for representing the interests of their community with their obligation to use council's resources effectively and efficiently.

Questions without notice

Clause 1.4.11 of the revised Practice Note explains that allowing questions without notice is inconsistent with the provisions of clause 241(1) of the Local Government (General) Regulation 2005 which requires notice to be given of matters to be raised at council meetings.

The purpose of the notice requirement is to enable all councillors and the public to be aware, by reading the agenda for the meeting, of matters that will be raised at the meeting. This in turn promotes openness and transparency in the conduct of council meetings.

The notice requirement also ensures that questions, when asked, are appropriately recorded and responded to. It should not stifle debate or constrain the asking of questions.

If the subject matter of a question is genuinely urgent and the question is not on the agenda, the question could be raised under clause 241(3) of the Regulation. That clause allows a matter to be raised before council, despite notice not having been given, if:

- A motion is passed to have the matter brought before the meeting; and
- The matter is ruled by the chairperson to be of great urgency.

It should be borne in mind that a councillor is at liberty to ask a question of another councillor or the general manager about a matter that is on the meeting agenda during the debate on that matter.

The Division considers that it is acceptable for a council to adopt a practice of allowing councillors, just prior to the end of a meeting, to raise questions on the understanding that the answers will be provided at the following meeting.

Such questions should be recorded in the minutes of the meeting. This could be formalised by way of an agenda item "Questions for Next Meeting". This would constitute a means of giving notice of the question for the following meeting, provided that there is sufficient time between the two meetings to meet the notice requirements of clause 241. When such questions are listed, there is nothing preventing an answer being given straight away, if it makes sense to do so.

Removal of Items of Business from the Agenda before the Meeting

As noted in clause 1.4.12 of the revised Practice Note, once the agenda for a meeting has been sent to councillors an item of business on the agenda should not be removed from the agenda prior to the meeting.

The proper course of action for the removal of an item of business from the agenda in these circumstances is for council to resolve at the meeting to defer the business to another meeting or resolve not to consider the business, as the circumstances may require.

Comments by the General Manager on the Merits of a Notice of Motion

As noted in clause 5.2.3 of the revised Practice Note, it is good practice that a general manager only provide factual information on a notice of motion to assist in the discussion of the motion if requested by the councillor who lodged the motion.

It is considered inappropriate for a general manager to comment in the business papers on the merits of any notice of motion. However this does not prevent the general manager from answering a question with regard to factual information, if invited to do so. Such information could include legal or financial impediments, which should be considered by the Council when making decisions.

Workshops

Clause 13.3.1 concerns the procedures for council workshops. Ideally, workshops should be chaired by the general manager or another senior council officer. This will assist in placing workshops in their proper perspective, that is, an information sharing forum, and avoid the appearance of a formal council meeting which carries the attendant risk of de facto decision-making.

Amendments to Councils' Codes of Meeting Practice

The Division is aware that a number of councils, in reviewing their meeting procedures in light of the revised Practice Note, have found it necessary to amend their codes of meeting practice.

It is apparent that several councils have been under the misapprehension that provided they are satisfied that an amendment is not substantial they may amend their codes without public notice and exhibition.

The attention of councils is drawn to section 363 of the Act. The effect of this section is that a council may only amend its code of meeting practice by preparing a new draft code and complying with the public consultation procedure set out in sections 361 and 362 of the Act.

Section 362 states that if, after considering the submissions received during the public consultation process, a council wishes to amend the draft code before adopting it the council may either:

- re-exhibit the draft code with the amendments, or
- if it considers that the amendments are not substantial, simply amend the draft and adopt it.

The only exception to these is, as noted in clause 12.2.1 of the Practice Note, an amendment which is triggered by a change in the Act or the Local Government (General) Regulation 2005. In such cases the legislation effectively amends a code of meeting practice.

Councils are asked to consider these matters when reviewing their codes of meeting practice.



Ross Woodward
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