

# Dealing with Disruptive Behaviours Policy

Classification:	Council Policy
Policy Name:	Dealing with Disruptive Behaviours Policy
First Issued / Approved:	August 2016 (C10773)
Last Reviewed:	N/A
Next Review:	(2 years unless legislation requires otherwise)
ECM Tracking No.:	2861886
Responsible Officer:	General Manager, Corporate Services
Relevant Legislation:	<i>Local Government Act 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i> <i>Summary Offences Act 1953</i> <i>Intervention Orders (Prevention of Abuse) Act 2009</i> <i>Work Health and Safety Act 2012</i>
Related Policies:	<i>Informal Gatherings Policy</i>

## 1. Statement of Principle

- 1.1 The City of Burnside (the Council) supports the principle that the procedures to be observed at a Council Meeting (which includes a meeting of a Council Committee or Council Informal Gathering) contribute to open, transparent, informed and responsible decision-making whilst encouraging appropriate community participation in the affairs of the Council.
- 1.2 Council Meetings (other than Council Informal Gatherings) are formal decision-making forums of the Council as a local government authority. 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.
- 1.3 While Council Informal Gatherings are not formal decision making forums of the Council as a local government authority, the principle that Council will not tolerate the interruption of informal gatherings open to the public by members of the public is maintained.

## 2. Policy Objective

- 2.1 This Policy establishes clear steps for the management of disruptive behaviour by a member (or members) of the public, at Council Meetings that are open to the public.

### 3. Policy Scope

- 3.1 This Policy applies to all Council Meetings that are open to the public. Its principles may also be applied to other Council forums which are open to members of the public at the absolute discretion of the Presiding Member or convenor of that forum.

### 4. Introduction

- 4.1 The Council is committed to providing residents and ratepayers with as many opportunities as possible to attend meetings held by the Council and to participate in specified processes. 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.
- 4.2 Council Meetings are open to the public and attendance is encouraged, except where the Council (or the Council Committee) believes it is necessary in the broader community interest to exclude the public from the discussion and, if necessary, decision of a particular matter.
- 4.3 The public will only be excluded from Council Meetings when considered appropriate and necessary in the circumstances, and after taking into account the provisions set out at section 90 of the *Local Government Act 1999*.
- 4.4 The Council encourages public attendance at meetings and workshops open to the public through public notification of meetings and the inclusion of dates and times on the Council website.
- 4.5 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 Elected Members and the public.
- 4.6 There can be instances where a member of the public fails to show respect or consideration for the Presiding Member, Elected 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.
- 4.7 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.
- 4.8 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.
- 4.9 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, Elected Members or the public.

- 4.10 This Policy sets out how the Council will ensure that the relevant principles and considerations as set out in this Policy are observed and, consistent with its duty to ensure good order and conduct at its Council Meetings, will deal with disruptive behaviour at Council Meetings open to the public, in accordance with this Policy.

## **5. Strategic Plan Desired Outcomes**

- 5.1 Delivery of good governance in Council business.

## **6. Our Approach**

- 6.1 Regularly review, update and adopt leading governance, risk management and administrative practices.

## **7. Disruptive Behaviour**

- 7.1 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.
- 7.2 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):
- 7.2.1 talking when others are speaking;
  - 7.2.2 constant interjection, particularly when the Presiding Member or Elected Members present at the Council Meeting are speaking, but also when Council staff, consultants or the public are addressing the Council Meeting;
  - 7.2.3 refusal to accede to a Presiding Member's lawful and reasonable instructions, particularly when asked to desist from disruptive behaviour;
  - 7.2.4 verbal badgering;
  - 7.2.5 frequent interruptions (including of a non-verbal nature);
  - 7.2.6 audible mobile phone use in a public forum;
  - 7.2.7 swearing or using derogatory and demeaning language;
  - 7.2.8 unreasonably monopolising public opportunities for discussion and refusal to give up the floor to allow other members of the public to ask questions;
  - 7.2.9 stalking or intimidation;
  - 7.2.10 verbal or physical threats or any other aggressive or threatening behaviour towards either Elected Members, Council staff or other members of the public;
  - 7.2.11 erratic, or otherwise odd or unusual behaviour;

7.2.12 excessive noise-making;

7.2.13 participants appearing to be under the influence of intoxicating alcohol or drug use; and

7.2.14 physical aggression to other people or property.

7.3 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.

## 8. Interpretation

8.1 **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 Informal Gatherings, as well as any other public forum arranged, or managed, by the Council;

8.2 **Council Informal Gathering** means informal gatherings, briefing sessions, planning sessions and other discussions that are arranged by the Council, either by the CEO or by the elected Council. Section 90(8) of the *Local Government Act 1999* provides a list of non-exclusive examples of informal gatherings, which are:

8.2.1 planning sessions associated with the development of policies or strategies;

8.2.2 briefing or training sessions;

8.2.3 workshops;

8.2.4 social gatherings to encourage informal communication between members or between members and staff.

8.3 **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;

8.4 **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.

## 9. Principles

9.1 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.

9.2 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.

9.3 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, and directed to treat the Council Meeting with respect and will be requested to immediately cease such behaviour.

- 9.4 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.

## 10. Dealing with Disruptive Behaviours

- 10.1 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.
- 10.2 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.
- 10.3 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.
- 10.4 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. The Elected Members will not engage with the person (or persons) involved during this time but, rather, will remove themselves from the situation while the Presiding Member and the CEO discuss the matter with the disruptive person(s).
- 10.5 If, after resuming the Council Meeting, the disruptive behaviour continues, the Presiding Member may take one or more of the following actions:
- 10.5.1 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.
- 10.5.2 In the event that a member of SAPOL is not immediately available to attend, the Council Meeting will remain adjourned until such time as a member of SAPOL can attend, or after a reasonable period of time has elapsed (as determined by the Presiding Member), the Council Meeting will be adjourned to a time and date to be fixed.
- 10.5.3 As soon as practicable following the Council Meeting (that has either naturally concluded or has been adjourned in accordance with 10.3), 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).
- 10.5.4 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.

- 10.6 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 indemnity costs in pursuing the matter.
- 10.7 Upon the outcome of any successful prosecution as part of the sentencing process, the Council will in all cases:
- 10.7.1 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
  - 10.7.2 make submissions to the Court that a criminal conviction be recorded against the offending person(s).
- 10.8 Nothing in this Policy prevents an Elected Member, Council employee or member of the public from making their own report in relation to disruptive behaviours to the appropriate public authority, and taking any lawful action they consider appropriate in the circumstances.

## 11. Statutory Provisions

- 11.1 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.

### 11.2 Local Government Act 1999

#### Section 95 – Obstructing meetings

A person who intentionally obstructs or hinders proceedings at a meeting of a Council or Council committee, or at a meeting of electors, is guilty of an offence.

Maximum penalty: \$1 250.

### 11.3 Local Government (Procedures at Meetings) Regulations 2013

#### Regulation 30 – Interruption of meetings by others

A member of the public who is present at a meeting of a Council or Council committee must not -

- (a) behave in a disorderly manner; or
- (b) cause an interruption.

Maximum penalty: \$500.

### 11.4 Summary Offences Act 1953

#### Section 7 – Disorderly or offensive conduct or language

- (1) A person who, in a public place or a police station -
  - (a) behaves in a disorderly or offensive manner; or
  - (b) fights with another person; or

- (c) uses offensive language,

is guilty of an offence.

Maximum penalty: \$1250 or imprisonment for 3 months.

#### 18A – Public meetings

- (1) A person who, in, at or near a place where a public meeting is being held -
  - (a) behaves in a disorderly, indecent, offensive, threatening or insulting manner; or
  - (b) uses threatening, abusive or insulting words; or
  - (c) in any way, except by lawful authority or on some other lawful ground, obstructs or interferes with –
    - (i) a person seeking to attend the meeting; or
    - (ii) any of the proceedings at the meeting; or
    - (iii) a person presiding at the meeting in the organisation or conduct of the meeting, is guilty of an offence.

Maximum penalty: \$1,250 or imprisonment for 3 months.

- (2) Where, in the opinion of the person presiding at a public meeting, a person in, at
  - or near the place at which the meeting is being held –
    - (a) is or has been behaving in a disorderly, indecent, offensive, threatening or insulting manner; or
    - (b) is or has been using threatening, abusive or insulting words; or
    - (c) in any way, except by lawful authority or on some other lawful ground, is or has been obstructing or interfering with –
      - (i) a person seeking to attend the meeting; or
      - (ii) any of the proceedings at the meeting; or
      - (iv) a person presiding at the meeting in the organisation or conduct of the meeting,

the person presiding may request a police officer, or the police generally, to remove that person from the place or the area in the vicinity of the place.

## 12. Review and Authority

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

## 13. Availability

- 13.1 This Policy is available to be downloaded, free of charge, from Council's website [www.burnside.sa.gov.au](http://www.burnside.sa.gov.au)
- 13.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

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