

Overview

The Shire of Toodyay (Shire) recognises the value of community input and is continually looking for ways to engage more deeply with the community.

This information has been extracted from the Shire of Toodyay Standing Orders Local Law as well as legislative instruments underpinned by the Local Government Act 1995.

What are Committees of Council

Committees of Council are:

- Established legislatively with a defined regulatory purpose by the local government (Council);
- To be bound by the provisions contained in the *Local Government Act 1995* and subsidiary legislation (under the *Local Government Act 1995*).
- To be bound by the provisions contained within the *Shire of Toodyay Standing Orders Local Law 2008*; and
- To be bound by the provisions contained in the Shire of Toodyay's Code of Conduct.

Rules in respect to Committees of Council

References contained in the following should be cross-referenced with information available from **The Western Australian Legislation website** that is now hosted by the **Parliamentary Counsel's Office** and can be accessed at www.legislation.wa.gov.au

Committees of Council are generally established in order to provide advice and guidance to Council in terms of achieving Council's strategic direction which is illustrated via the adoption of the Shire's Community Strategic Plan and associated Integrated Planning Strategic documents.

The ***Shire of Toodyay Standing Orders Local Law 2008*** has a complete section in regard to "Committees" with references made to the *Local Government Act 1995* (the Act) and relevant subsidiary legislation as follows:

17.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.

Subdivision 2 – Committees and their meetings; Section 5.8 of the *Local Government Act 1995* provides for the establishment of committees and states as follows:

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* *Absolute majority required.*

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include:
- (a) the terms of reference of the committee;
 - (b) the number of Council Members, officers and other persons to be appointed to the committee;
 - (c) the names or titles of the Council Members and officers to be appointed to the

- committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

17.2 Types of committees

The types of committees are dealt with in the Act.

Sections 5.9 provides for the types of committees.

5.9. Committees, types of

- (1) In this section —
other person means a person who is not a council member or an employee.
- (2) A committee is to comprise —
 - (a) council members only; or
 - (b) council members and employees; or
 - (c) council members, employees and other persons; or
 - (d) council members and other persons; or
 - (e) employees and other persons; or
 - (f) other persons only.

17.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

5.16. Delegation of some powers and duties to certain committees

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation. * *Absolute majority required.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

17.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

5.17. Limits on delegation of powers and duties to certain committees

- (1) A local government can delegate —

- (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority of the council; and
 - (ii) any other power or duty that is prescribed; and
 - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
 - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).
 [Section 5.17 amended: No. 49 of 2004 s. 16(2); No. 16 of 2019 s. 19.]

17.5 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

5.18. Register of delegations to committees

A local government is to keep a register of the delegations made under this division and review the delegations at least once every financial year.

17.6 Appointment of committee Members

The appointment of committee Members is dealt with in the Act.

Sections 5.10 provides for the types of committees and membership.

5.10. Committee members, appointment of

- (1) A committee is to have as its members —
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* *Absolute majority required.*

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can

only be exercised on the decision of an absolute majority of the council.

- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

[Section 5.10 amended: No. 16 of 2019 s. 18.]

17.7 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

5.11. Committee membership, tenure of

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
 - (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or
 - (b) the person resigns from membership of the committee; or
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,whichever happens first.
- (2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —
 - (a) the term of the person's appointment as a committee member expires; or
 - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,whichever happens first.

17.8 Appointment of deputies

Note: The appointment of Deputy Committee Members is dealt with in the Act.

5.11A. Deputy Committee members

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.
** Absolute majority required.*
- (2) A person who is appointed as a deputy of a member of a committee is to be —
 - (a) if the member of the committee is a council member — a council member; or
 - (b) if the member of the committee is an employee — an employee; or
 - (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or
 - (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.
- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

[Section 5.11A inserted: No. 17 of 2009 s. 20.]

In terms of appointment of Deputies **the Standing Orders only specifies the following points:**

- (1) The Council may appoint one or more Members to be a deputy or deputies for a committee member and, where two or more deputies for the same Member are appointed, the Council is to determine the order of priority among those deputies.
- (2) A deputy may act temporarily in place of the committee member for whom he or she was appointed as a deputy on any occasion on which, or during any period in which, the committee member is unable to perform the functions of the position.
- (3) A member of a committee is not eligible to be appointed as a deputy in respect of the same committee.
- (4) Whenever a committee member is unable to attend a committee meeting, or part of a committee meeting, his or her deputy may:
 - (a) attend the meeting, or that part of the meeting, in place of the committee member; and
 - (b) exercise all the rights, powers and privileges of the committee member.
- (5) In any case where more than one deputy is available to act in place of the committee member, the deputy with the higher priority, as determined by the Council under sub-clause (1), is to act.

17.9 Resignation of committee Members

The resignation of committee Members is dealt with in the Local Government (Administration) Regulations 1996 (regulation 4).

Committee members, resignation of

A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation.

Regulation 4

17.10 Calling committee meetings

A meeting of a committee is to be held:

- (a) if called for in a verbal or written request, to the CEO by the Presiding Member of the committee, identifying the date and purpose of the proposed meeting;
- (b) if called for by at least one third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

17.11 Standing Orders to apply

These Standing Orders are to apply to the conduct of committee meetings, with the exception of:

- (a) clause 7.1 in relation to seating;
- (b) clause 7.5(1)(b) in relation to the requirement to rise; and
- (c) clause 7.9 in relation to speaking twice.

17.12 Committee to report

A committee:

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and
- (c) as soon as possible after it has decided on a matter referred to it by the Council, is to prepare a report containing recommendations and submit it to the Council.

Meetings

The public notice of Council and Committee Meetings is in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* which states as follows:

12. Meetings, public notice of (Act s. 5.25(1)(g))

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
 - (a) *the ordinary council meetings; and*
 - (b) *the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.*
- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).*
- (3) *Subject to subregulation (4), if a special meeting of a council is to be open to*

members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.

- (4) *If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.*

Part 2 – Meetings of Council in the Shire of Toodyay's Standing Orders Local Law 2008 (Clause 2.1(1)) references the Act and states "Ordinary meetings are to be held not more than 3 months apart."

1.7. Local public notice

- (1) *Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*
 - (a) *published in a newspaper circulating generally throughout the district; and*
 - (b) *exhibited to the public on a notice board at the local government's offices; and*
 - (c) *exhibited to the public on a notice board at every local government library in the district.*
- (2) *Unless expressly stated otherwise it is sufficient if the notice is —*
 - (a) *published under subsection (1)(a) on at least one occasion; and*
 - (b) *exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —*
 - (i) *the time prescribed for the purposes of this paragraph; or*
 - (ii) *if no time is prescribed, 7 days.*

[Section 1.7 amended: No. 64 of 1998 s. 18(3).]

Minutes

The keeping of minutes of a meeting is regulated through Section 5.22, Part 5 (Division 2) of the *Local Government Act 1995* which states as follows:

5.22. Minutes of council and committee meetings

- (1) The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.
- (2) The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.
- (3) The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.