

	<h1>District Council of Cleve</h1>	Version No:	1.0
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Policy Name: **9.28 - Information or Briefing Sessions**

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## 1. POLICY STATEMENT

This policy implements the Statutes Amendment (Local Government Review) Act 2021 to insert section 90A—Information or briefing sessions.

## 2. DEFINITIONS

In this Policy:

**Chief Executive Officer** means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

**Information or Briefing Sessions** means a meeting held with the Chief Executive Officer and Elected Members that is not being a formal meeting of a council or council committee.

**Council** means District Council of Cleve.

**Council Member** means a person appointed or elected as a councillor of a council.

**Electronic Means** includes a telephone, computer or other electronic device used for communication.

## 3. SCOPE

### 3.1. Information or Briefing Sessions

A council, or the Chief Executive Officer (CEO) of the council, may hold or arrange for the holding of a session to which more than 1 member of the council or a council committee is invited to attend or be involved in for the purposes of providing information or a briefing to attendees (an information or briefing session).

A matter must not be dealt with at a council information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal meeting of the council or a council committee.

## 4. APPLICATION OF POLICY

### 4.1. When does section 90A Apply

Section 90A applies to sessions held or arranged by the council or the CEO of a council:

- to which more than one (1) member of the council or a council committee is invited; and
- the purpose of which is to provide information or a briefing to attendees

Section 90A does not apply to formal meetings of a council or council committee held under Chapter 6 of the Local Government Act, nor does it apply to (for example):

- a meeting scheduled between a Mayor and a council member to discuss a constituent
- concern;
- a training session for all council members on meeting procedures;
- a 'walk through' of the council agenda attended by the Mayor, CEO and Governance Manager prior to the council meeting;
- a selection panel discussion to short list candidates for the position of independent member on the Audit and Risk Committee, and
- two Ward Councillors meeting for coffee to discuss ward related issues.

#### 4.2. What Rules Apply

An 'information or briefing session' must not deal with a matter in a way that obtains, or effectively obtains, a decision on a matter outside of a formally constituted council or council committee meeting (s 90A(2)).

- If the matter to be discussed at an information or briefing session will, or is intended to be, on the agenda for a formal council or committee meeting, the information or briefing session must be open to the public (noting there are grounds that may allow the council or CEO to determine to close the information or briefing session to the public
- As soon as practicable after the holding of an information or briefing session information relating to:
  - The place, date and time of the session;
  - The matter discussed at the session; and
  - Whether or not the session was open to the public must be published on a website determined by the CEO (r 8AB, the General Regulations).
- If an order is made to close an information or briefing session to the public, a record must be made of:
  - The grounds on which the order was made;
  - The basis on which the information falls within the ambit of each ground on which the order was made; and
  - If relevant, the reasons that receipt, consideration or discussion of the information in public would be contrary to the public interest (s 90A(5)).
- If a person has been lawfully excluded from an information or briefing session, it is an offence for them to remain (s 90(5)). This prohibition does not apply to council members, council committee members or people specifically permitted to remain (s 90(6)).
- A prescribed matter cannot be dealt with at an information or briefing session (s 90A(6)(b)).
- A reference to a meeting or meetings in sections 94 and 95 of the Local Government Act includes a reference to an information or briefing session.

#### 4.3. Information or Briefing Session via Electronic Means

Council may hold information or briefing sessions by telephone or other electronic means, provided that members of the public can hear the discussion between all participants at the information or briefing session.

##### 4.3.1. Attendance at Information or Briefing Sessions Electronically

Members of the Council or a Council Committee may participate in an information or briefing session by electronic means (an electronic information or briefing session).

A member of the Council or Council Committee participating in electronic information or briefing session is taken to be present at the information or briefing session provided that the member:

- (a) can hear all other members present at the information or briefing session; and
- (b) can be heard by all other members present at the information or briefing session.

#### 4.3.2. Form of Participation by Electronic Means

Where:

- (a) a Council or Committee member is to participate in an information or briefing session by electronic means; and
- (b) the electronic means has the functionality to allow the member to participate in electronic information or briefing session 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.

#### 4.3.3. Public Access to Electronic Information or Briefing Session

Council will make available to the public a live stream of any electronic information or briefing session which must be conducted in a place open to the public so that members of the public can hear the discussions between all persons participating in the information or briefing session.

The live stream will be published on a website determined by the chief executive officer, provided that this requirement will not apply to any part of the electronic information or briefing session that has been closed to the public.

#### 4.4. Closing an Information or Briefing Session to the Public

Information or briefing sessions must be open to the public during any period they are to consider a matter that is or is intended to be on the agenda for a meeting of the council or council committee. However, the council or CEO can order that an information or briefing session be closed to the public where the council or CEO considers it necessary or appropriate to close the session to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the Local Government Act.

In such a case, the council or CEO should:

- before making a decision, take into account the relevant considerations set out in section 90(3);
- Make an order (either by resolution, or if it is the CEO, in writing) pursuant to section 90A(4);
- Either contemporaneously with making the order or as soon as reasonably practicable after making the order, make a record of:
  - a. the grounds on which the order was made; and
  - b. the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
  - c. if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.

### 5. RECORD KEEPING

- 5.1. Section 90A(5) requires that when an order is made to close an information or briefing session to the public a record of that order must be made.

Orders made by a council to close an information or briefing session will be made by resolution at a council meeting and therefore the record of that order will be captured within the minutes of the relevant council meeting. In relation to orders made by the CEO, the order closing the session to the public may be recorded in writing and maintained in accordance with the council's record keeping system.

There is no obligation for councils to make documents provided to council members at information or briefing sessions available to the public. In addition, documents presented to information or briefing sessions that are closed to the public because they comprise information or a matter listed in section 90(3) are confidential at law.

**6. COUNCIL ENDORSEMENT**

This Policy was adopted by resolution of the Council on June 2022.

**7. REVIEW AND EVALUATION**

This Policy is scheduled for review by Council in 14 May 2026.

**8. AVAILABILITY OF POLICY**

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website [www.cleve.sa.gov.au](http://www.cleve.sa.gov.au). Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's schedule of fees and charges