**1.5 Meeting Agenda / Minutes – Confidential Items Policy**

# **STRATEGIC PLAN OBJECTIVE**

3.3 To provide responsible and accountable governance and management of the EMRC.

# **PURPOSE**

To ensure that confidential items, appearing on the Council and/or Committee agendas are easily recognised so that they can be dealt with in accordance with their special nature.

# **LEGISLATION**

# *Local Government Act 1995* s.5.23, s.5.25(1)(j), 5.94 and 5.95

# *Local Government (Administration) Regulations 1996* s.5.23, r14, 29 and 29A

*Local Government (Rules of Conduct) Regulations 2007*

*Freedom of Information Act 1992* r.6 Schedule 1 Clause 4

# EMRC Standing Order Local Law 2013 clauses, 4.20 and 5.13

# **POLICY STATEMENT**

1. That items which at the discretion of the Chief Executive Officer (CEO) are felt to require confidentiality be distributed separate from but accompanying the Council and or Committee agendas on paper of a colour not used elsewhere in the agenda.
2. That the agenda indicate that an item is to be treated as confidential while it is being considered by Council/Committee.
3. That the Council and/or Committee decision relating to a confidential item be included in the minutes of the meeting.
4. That confidential documents and attachments are to be emailed to all councillor and deputy members upon delivery of all relevant agendas.
5. That there is no requirement of councillors or deputy members to return confidential attachments to the CEO.
6. That the power of the CEO, under section 5.25(1)(j) of the *Local Government Act 1995* be exercised so that the reports and other documents, relating to the confidential item and presentation at the meeting, not be available for inspection by the public.

The protocol for dealing with confidential information is:

1. Confidential information will be categorised by the CEO of the EMRC into information that will be disclosed only to the Council and information which may be disclosed to committees and member Council CEOs and officers.
2. Confidential information which will only be disclosed to the Council will include information which is the subject of legal professional privilege, information relating to employees and information which, if disclosed will or may cause economic harm to the EMRC.
3. Where confidential information is to be disclosed only to the Council, it will be considered behind closed doors with the result the recipients of the information will be limited to officers and employees of the EMRC and Council members. This confidential information will not be disclosed to any third party, inclusive of member Council CEOs and officers.
4. Confidential information which may be disclosed to committees and member Council CEOs and officers will be marked as being expressly subject to confidentiality and will also be considered behind closed doors.
5. Confidential information which is categorised by the CEO to be not disclosed to committees and member Council CEO’s and officers may be referred to Council for review about whether it should be disclosed to committees and member Council CEOs and officers.
6. Application of the protocol will be made in a manner which will facilitate decision making by the EMRC and its Council and committees, prevent confidential information being accidentally disseminated, minimise the conflict of interest member Council CEOs and officers may have consequent upon the duty they owe to a participant and the legal and equitable duty of confidence they owe to the EMRC and avoid the need for litigation by the EMRC.

# **FINANCIAL CONSIDERATIONS**

Nil

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| Adopted/Reviewed by Council | 1. 18 September 1997
2. 22 July 1999
3. 02 May 2002
4. 20 May 2004
5. 23 February 2006
6. 18 September 2008
7. 23 September 2010
8. 18 September 2014
9. 06 December 2018
10. 21 March 2019
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| Next Review | Following the Ordinary Elections in 2021 |
| Responsible Directorate | Corporate Services |