

# COMMITTEES POLICY

## 1.0 Purpose

This policy is intended to provide a consistent basis for the establishment and application of Council Committees on which there is Councillor representation and provide:

- Support and direction in the formation of committees and distinction between the roles and responsibilities of different committees in which there is Councillor representation; and
- Council with opportunity to monitor the performance and relevance of all committees against the Council Plan, the documented Terms of Reference and objectives of each Committee to ensure that committees do not operate in perpetuity beyond achieving their purpose.

This policy intends to promote a collaborative environment with Council and the community; and it is expected that all members will contribute to the Committee on equal terms, openly, honestly and without fear of discrimination.

## 2.0 Scope

Council may establish committees to provide forums for the community to engage with Council, present views and support Ballarat City Council on issues relevant to Council activities.

Councillors, Special Committee members, Advisory Committee members and Officers are to comply with this policy to meet legislative requirements.

## 3.0 Policy Statement

### 3.1 Special Committees

In accordance with section 86 of the *Local Government Act 1989* (the Act), Council may establish one or more *Special Committees*. Council defines the purpose and membership of a *Special Committee* as a formally appointed committee established under sections 86-88 of the Act. The Council may formally delegate decision-making powers and responsibility to a *Special Committee* through an *Instrument of Delegation*. This *Instrument* spells out the committee's role and enables it to exercise functions and power of Council, within certain constraints.

### 3.2 Advisory Committees

The main function of an *Advisory Committee* is to assist the Council in the engagement and consultative process and provide valuable information to support the decision making of the Council and in turn the objectives of the Council Plan. *Advisory Committees* may be established for a skill-based (eg: Arts), issue-based (eg: Ballarat West), working partnership (eg: Sister City) and/or a community voice (eg: Youth committee). *Advisory Committees* also allow the Council the opportunity to access independent external advice that may be available in the community. An *Advisory Committee* lifespan should be aligned with and be focussed on the Council Plan and Strategy. *Advisory Committees* have no delegated powers and their decision or recommendations do not have standing unless they are adopted in a Council meeting and Council is not bound to take on an *Advisory Committees* recommendation.

### 3.3 Terms of Reference

A standard *Terms of Reference* template creates a common ground for all committees. The *Terms of Reference* will provide a framework within which the committee operates. A template is available from the Risk & Compliance Unit. The *Terms of Reference* for a *Special or Advisory Committee* must:

- Be presented to Council for consideration and adoption at the inception of the committee;
- Include a clear statement of purpose and the Committee's objectives. Objectives should be supported by measurable outcomes that are reported to Council;
- Be reviewed by the Committee every two years and by the Council within 12 months of a general election. Any proposed changes to the Terms of Reference resulting from a review must be agreed on by the Committee and be presented to the Council for formal approval; and
- Be available on the Council's website and electronic record system.

The *Terms of Reference* are subject to Council resolution and are not effective until that approval through a resolution has been given.

### 3.4 Committee Membership, Period of Membership and Method of Appointment

As per Council's Meeting Procedure Local Law, Councillors are appointed to *Special or Advisory Committees* annually. Council Officers are appointed to committees at the discretion of the Chief Executive Officer.

*Special or Advisory Committees* members are appointed as per the *Terms of Reference*; it is recommended that a review of membership occurs every two years. All appointments to *Special or Advisory Committees* are subject to Council resolution and are not effective until that endorsement is given by a resolution of Council.

#### 3.4.1 Special Committee Composition

A *Special Committee* may comprise solely of Councillors, Officers or other persons or a combination thereof. The most appropriate mix of membership for each *Special Committee* will be determined by the Council at the formation of the *Special Committee*.

#### 3.4.2 Advisory Committee Composition

The most appropriate mix of membership will be determined by the Council. The committee may consist of Councillors, Council Officers and community representatives. The most appropriate mix of membership for each *Advisory Committee* will be determined by the Council at the formation of the *Advisory Committee*.

#### 3.4.3 Advertising positions vacant

Council will assist *Special or Advisory Committee's* in advertising the opportunity for local residents and user groups to become members of the *Special or Advisory Committee* to ensure a representative cross section of people from the municipality is elected to the Committee as appropriate. This is done via:

- Placement of a Public Notice in a widely circulating newspaper;
- Placement on Council's website; or
- Placement of a notice in a publication relevant to the target audience of the purpose of the *Special or Advisory Committee*.

### 3.4.4 Appointment or Removal of Committee Members

Council may appoint or remove members of the *Special or Advisory Committees* at any time in accordance with the Terms of Reference and or the Act. Membership changes need to be adopted by Council.

Council Officers are there to provide advice and support to the committee where necessary and unless stated in the Terms of Reference or appointed by the Chief Executive Officer, Council officers have no voting rights.

### 3.4.5 Delegated Authority and Decision Making

#### 3.4.5.1 Special Committees

Council must keep a register of delegations to *Special Committees*. Council may, by *Instrument of Delegation*, delegate any of its functions, duties or powers under the Act or any other Act where Council has authority to a *Special Committee*, with the exception of the following powers:

- This power of delegation;
- To declare a rate or charge;
- To borrow money;
- To enter into contracts for an amount exceeding an amount previously determined by the Council;
- To incur any expenditure exceeding an amount previously determined by the Council; and
- Any prescribed power\*.

*\* A prescribed power is the ability to establish rules, laws, guides or directions or to assert a title or right to something on the grounds of prescription.*

The formal *Instrument of Delegation* provides a *Special Committee* with the delegated authority to make decisions as if it were Council. The *Instrument of Delegation* will define the *Special Committee's Terms of Reference/purpose*. A decision of a *Special Committee* which does not relate to a matter delegated to that *Special Committee* cannot be given effect to unless formally approved by Council resolution.

The *Instrument* is subject to review within 12 months of a general election. Any proposed changes outside this time will be required to be presented to Council for formal approval or revocation. The *Instrument* is not effective until that approval through a resolution has been given and the document is signed and sealed with Council's Common Seal. The Risk & Compliance Unit will arrange for Signing and Sealing.

Subject to section 93A of the Act, the Council's Caretaker Policy and the Councillor Code of Conduct Policy, a *Special Committee* acting under delegation given by the Council, must not make a major policy decision during the election period for a general election.

#### 3.4.5.2 Advisory Committees

*Advisory Committees* act in an advisory capacity only and have no delegated authority to make decisions as if they were the Council. *Advisory Committees* provide advice to the Council to assist them in their decision making.

### 3.5 Meeting Procedures including Chairing

#### 3.5.1 Special Committee

In accordance with the Council's Meeting Procedure Local Law, the date, time and place of all *Special Committee* meetings are to be fixed by the Council and reasonable notice (seven days) must be provided to the public.

Meetings are open to the public unless the committee resolves to close the meeting in accordance with section 89(2) of the Act.

#### 3.5.2 Advisory Committee

Meetings of *Advisory Committees* shall be held at a time and place determined by the Committee. Advisory Committees are not required to give public notice of their meetings and meetings are not required to be open to the public.

A Committee may determine, with consent of the Councillor representative/s, to appoint another member other than the Councillor representative/s as Chairperson. If the Chairperson is not present at a meeting, any other Councillor representative shall be the appointed Chairperson. In the absence of any other Councillor representative/s, the Committee members shall appoint a Chairperson for the purpose of conducting the meeting.

#### 3.5.3 Chairing of Committee

The *Special* or *Advisory* Committee's Councillor Representative will Chair the meeting unless otherwise prescribed in the Terms of Reference. In the absence of the Chair another Councillor Representative, or a nominated member, will Chair the meeting. The appointment of a Chairperson or Acting Chairperson of a *Special* or *Advisory Committee* shall be in accordance with the Council's Meeting Procedure Local Law and the Committee's *Terms of Reference*.

### 3.6 Production of Agendas and Minutes

An agenda must be prepared and distributed prior to each meeting of a *Special* or *Advisory Committee* at least 72 hours (three business days) before the meeting. The agenda serves to list the matters to be discussed at the meeting in order to keep the discussion focused and to assist with time management of the meeting. The agenda should address meeting formalities such as:

- Time, date, location, meeting name;
- Attendances and apologies;
- Declaration of conflicts of interests;
- Acceptance of minutes from the previous meeting;
- Note of actions from previous meeting;
- Reports (special projects, correspondence, etc.);
- Matters arising not on the agenda;
- Action items from this meeting; and
- Date of next meeting.

The Chairperson must arrange for the preparation and circulation of the minutes of all meetings to the Committee members within 14 days of holding the meeting. Section 93(6) of the Act requires that the minutes of the meetings of the *Special* or *Advisory Committee* must:

- Contain details of the proceedings and resolutions made;
- Be clearly expressed;
- Be self-explanatory;

- In relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision-making process; and
- Resolutions made at the meeting must clearly state the intention and effect of the resolution.

The Chairperson must submit the minutes of a Committee meeting to the next meeting of the Committee for confirmation and adoption. On adoption, the Chairperson at the meeting must sign the minutes and certify that they have been confirmed. The Chairperson must arrange for minutes of each meeting to be retained.

### **3.6.1 Advisory Committee Assembly Record**

In addition there is a requirement under section 80A of the Act in regards to requirements to be observed by an assembly of Councillors:

*(1) At an assembly of Councillors, the CEO must ensure that a written record is kept of:*

- (a) the names of all Councillors and members of Council staff attending;*
- (b) the matters considered;*
- (c) any conflict of interest disclosures made by a Councillor attending under subsection (3).*

*Advisory Committees* are required to complete an Assembly of Councillor Record for any meetings that have a Councillor in attendance. The person taking the written record must ensure a copy of the Assembly of Councillors record is sent to the Risk and Compliance Unit.

See Appendix 2 for an example of an Assembly of Councillor Record.

### **3.6.2 Minutes adopted by Council**

The minutes must be provided to the Risk & Compliance Unit by post, email or by hand to:

City of Ballarat – Agenda Preparation  
[agendapreparation@ballarat.vic.gov.au](mailto:agendapreparation@ballarat.vic.gov.au)  
 PO Box 655  
 Ballarat, Vic 3353

Agendas and Minutes are to be lodged in and made available on Council's electronic document management system and Committees are encouraged to provide this information to the public, unless determined through the Committee's *Terms of Reference* or the exception of reports, attachments and details of decisions that are confidential in nature. Where it is determined that minutes will be made available to the public, a copy may be placed on Council's website.

The minutes, once adopted at the *Special or Advisory Committee* meeting are to be submitted in a report to Council. The Risk & Compliance Unit can provide assistance with writing the report.

### **3.7 Quorum and Voting Rights**

In accordance with Council's Meeting Procedure Local Law:

- A quorum must be at least the majority of Committee members, all of whom shall be members entitled to vote;
- Each member of the Committee present at a meeting, who is entitled to vote is entitled to one vote;
- Voting must be by a show of hands;
- Voting at a meeting that is open to members of the public must not be in secret;

- The question is determined by a majority of votes; and
- In the event of a tied vote, the Chairperson must exercise the casting vote.
- Officers providing advice and support to the Committee have no voting rights.

### 3.7.1 Abstain from voting

The Act has an absence of statutory requirements for Councillors and/or Committee Members to deliberately abstain from voting and accordingly abstain from participating in important decisions.

It must be noted that Councillors, when elected take an oath or affirmation affirming that they will carry out the duties of their position in the best interest of their communities and will faithfully and impartially carry out the powers, functions authorities and discretions vested in them to the best of their skill and judgement.

While no penalties apply where a Councillor chooses to abstain from voting, the decision to do so should not be taken lightly. Not participating in decisions taken by Council can be seen as an abrogation of a Councillor's responsibility to represent the community. Abstentions also serve to undermine the role of Councils in providing governance and leadership through effective decision making.

Although not a requirement of the Act, the meeting minutes should disclose when a Councillor abstains from voting on a matter.

### 3.7.2 Conduct and Interest Provisions

In performing the role of a *Special* or *Advisory Committee* member, a person must:

- Act honestly;
- Exercise reasonable care and diligence;
- Not make improper use of their position; and
- Not make improper use of information acquired as a result of their position.

Where a member of a *Special* or *Advisory Committee* has a conflict of interest in a matter that is likely to be discussed, the member must declare that interest immediately prior to the matter being considered by the *Special* or *Advisory Committee*. Disclosure must include the nature of the relevant interest and the member must remove themselves from the meeting during the discussion. The declaration and absence from the meeting during the discussion on the issue must be recorded in the minutes of the meeting.

#### 3.7.2.1 Special Committee Interest Provisions

Members of a *Special Committee* are required to comply with the interest provisions contained in section 81 of the Act. Unless under section 81(2A) where a Council has exempted a member of a *Special Committee*, all members of a *Special Committee* must complete a primary and ordinary returns of interest.

### 3.8 Confidential and Sensitive Information

Members of Council committees are required to comply with the confidential information provisions contained in sections 77 and 89 of the Act.

It is recognised that members of a *Special* or *Advisory Committee* may be in receipt of confidential or sensitive information that should not be disclosed without the consent of the Council or the Chief Executive Officer. Such confidential or sensitive matters may relate to:

- Information that would be of direct financial disadvantage to the Council if made public;
- Politically sensitive information that may impact negatively on the Council if made public;

- Information that is still only partly formulated and may, if released, give a misleading view to the community of what the Council is planning; and
- Any other information that would disadvantage the Council if made public.

Members of a *Special* or *Advisory Committee* shall be required to discuss any potential confidential or sensitive issues with the Chief Executive Officer before releasing information to any third parties.

### 3.8.1 Special Committee Confidential Reasons

Under section 89 of the Act any meeting of Council or a *Special Committee* must be open to members of the public unless subsection (2) applies. There are specific circumstances when a Council or *Special Committee* can resolve that the meeting be closed to members of the public. There are nine circumstances as outlined below:

- Personnel Matters;
- The personal hardship of any resident or ratepayer;
- Industrial matters;
- Contractual matters;
- Proposed developments;
- Legal advice;
- Matters affecting the security of Council property;
- Any other matter which the Council or Special Committee considered would prejudice the Council or any other person; and/or
- A resolution to close the meeting to members of the public.

If the *Special Committee* decides that it needs to “consider” or “discuss” any item that falls within one or more of the above categories it must:

*Formally resolve to close the meeting to members of the public and “move into camera” (section 89) and state the reason. Once discussion/resolution has been resolved a resolution to “move out of camera”. This must be recorded in the minutes of the meeting.*

The determination or outcome of any matters considered or discussed in camera of the *Special Committee* should be resolved in the open session of Council. The Act does not make provisions for resolutions and the purpose of the section 89 session is only to consider or discuss those matters that fall within the nine matters above. If information contained within the confidential section is required for Council to make a decision, this information is to be provided in a “Confidential Attachment Report” to the Council meeting and a resolution in the report must be to accept that item when considering the recommendation.

Council’s Meeting Procedure Local Law provides more details in relation to confidential information and meeting procedures.

### 3.9 Administrative Support

Administrative support may be provided to *Special* or *Advisory Committees* by the directorate whose functions are most aligned to the Committee.

### 3.10 Dissolution

*Special* or *Advisory Committees* may at any meeting agree to disband and return its responsibilities to Council. In the case of this event, Council requires immediate notification in writing of the Committee’s intention before dissolution.

Alternatively, if the *Special or Advisory Committee* does not fulfil its obligations, Council may disband the *Special or Advisory Committee* by resolution.

### 3.10.1 Special Committee Dissolution

The Chairperson is obliged to make the following arrangements within one month of disbanding:

- A financial statement must be prepared and presented to Council's Finance Unit;
- The Special Committee bank account must be closed, and the balance immediately forwarded to Council's Finance Unit; and
- All keys to buildings must be returned to Council's Facilities Maintenance Unit.

Dissolution requires a formal resolution of Council. In order for this to occur the Committee must pass a resolution to either disband or change its status from a *Special Committee* to an *Advisory Committee* of Council. The Risk & Compliance Unit will be able to provide assistance and the following is required:

- All minutes not yet adopted, including the minutes of the meeting disbanding or changing its status need to be attached to a Council report;
- Recommendation to endorse that the Special Committee disband or change its status from a Section 86 Committee to an Advisory Committee;
- Recommendation to revoke the Instrument of Delegation; and
- If changing status, recommendation to endorse the Advisory Committee Terms of Reference.

### 3.10.2 Advisory Committee Dissolution

*Advisory Committees* may at any meeting agree to disband. In the case of this event, Council requires immediate notification in writing of the Committee's intention before dissolution. Alternatively, if the *Advisory Committee* does not fulfil its obligations, Council may disband the *Advisory Committee*.

Dissolution requires a formal resolution of Council. In order for this to occur the Committee must pass a resolution to disband. The Risk & Compliance Unit will be able to provide assistance and the following is required:

- All Assembly of Councillor Records not yet adopted, including the Record of the meeting disbanding need to be forward to Governance;
- Council report recommendation to endorse that the Advisory Committee disband; and
- Recommendation to revoke the Terms of Reference.

## 3.11 Reporting

### 3.11.1 Special Committee

Part 12 of the *Local Government (General) Regulations 2015* requires that Council keep the following documentation and for it to be made available to the public to ensure compliance:

*(c) the minutes of meetings of special committees established under section 86 of the Act and held in the previous 12 months, other than those minutes relating to a part of a meeting which was closed to members of the public under section 89 of the Act and are confidential information within the meaning of section 77(2) of the Act; and*

*(d) a register of delegations kept under sections 87(1) and 98(4) of the Act, including the date on which the last review took place under sections 86(6) and 98(6), respectively, of the Act.*

### 3.1.11.1 Special Committee Financial Reporting

Special Committees are required to provide a copy of their financial accounts to Council's Finance Unit each year, as soon as practical, after 30 June.

City of Ballarat – Finance  
PO Box 655  
Ballarat, Vic 3353  
Phone: 5320 5625 - Executive Assistant, Director Business Services

### 3.11.2 Advisory Committee

As a minimum, *Advisory Committees* are required to prepare a formal report on an annual basis in line with their stated objectives. The report must be formally adopted by the Committee and should directly reflect the objectives and the performance measures of the Committee as set out in the *Terms of Reference*. The report will be presented to the Council for noting under the relevant portfolio. The committee's *Terms of Reference* may stipulate more frequent reporting.

### 3.12 Provision of Meals/Refreshments

The provision of meals/refreshments (if required) during the course of a *Special* or *Advisory Committee* meeting may be arranged and funded by the directorate whose functions are most aligned to the Committee.

### 3.13 External Committees, Boards and Groups

These are community and industry-based committees that operate with their own *Terms of Reference* or mandate where the Council has been invited to participate in partnership or as a community advocate.

Council does not have any power to enforce operating expectations on external committees. However, there are still some areas that are important to discuss regarding *External Committees*.

#### 3.13.1 Membership, Period of Membership and Appointment

Councillors are appointed to *External Committees* in accordance with Council's Meeting Procedure Local Law. Council Officers are appointed to External Committees at the discretion of the Chief Executive Officer.

#### 3.13.2 Delegated Authority and Decision Making Powers

Councillors appointed as members of *External Committees* have no delegated authority to make decisions on behalf of the Council. The role of a Council representative in this function is to represent and reflect the Council's views on any matters under consideration.

#### 3.13.3 Conflict and Interest Provisions

In performing the role on an *External Committee*, a Councillor or Officer must:

- Act honestly;
- Exercise reasonable care and diligence;
- Not make improper use of their position; and
- Not make improper use of information acquired as a result of their position.

Where the member of the Committee has an interest or conflict of interest in relation to a matter in which the Committee is concerned, or is likely to be considered or discussed, the member must disclose the interest to the Committee before the matter is considered or discussed at the meeting. Disclosure must include the nature of the relevant interest and be recorded in the minutes of the meeting.

### 3.13.4 Confidential and Sensitive Information

Councillors or officers as members of *External Committees* are required to comply with the confidential information provisions contained in sections 77 and 89 of the Act.

It is recognised that members of an *External Committee* may be in receipt of confidential or sensitive information that should not be disclosed without the consent of the Council or the Chief Executive Officer. Such confidential or sensitive matters may relate to:

- Information that would be of direct financial disadvantage to the Council if made public;
- Politically sensitive information that may impact negatively on the Council if made public;
- Information that is still only partly formulated and may, if released, give a misleading view to the community of what the Council is planning; and
- Any other information that would disadvantage the Council if made public.

Members of a Committee shall be required to discuss any potential confidential or sensitive issues with the appropriate Director before releasing information to any third parties.

### 3.13.5 Meeting Procedures including Chairing

Councillor representatives on *External Committees* will receive notification of meeting dates and locations together with a meeting agenda. Meetings of *External Committees* will be conducted in accordance with the Terms of Reference, rules and procedures of that Committee.

### 3.13.6 Friends of Groups

Councillors and Council Officers can be invited to attend Friends of Groups but there is no requirement for formal representation. Where possible, Friends of Group representative/s should link with Council's Advisory Committee/s for Council engagement and potential collaboration.

## 4.0 Supporting documents and references

### 7.1 Legislation

- Local Government Act 1989
- Local Government (General) Regulations 2015

### 7.2 Associated Documents

- Meeting Procedure Local Law 2018
- Councillor Code of Conduct
- Employee Code of Conduct
- The Role and Future of Citizen Committees in Australian Local Government 2013

### 7.3 Definitions

<b>Act</b>	<i>Local Government Act 1989</i>
<b>Regulations</b>	<i>Local Government (General) Regulations 2015</i>
<b>Special Purpose Committees</b>	Special Purpose Committees, for the purpose of this policy, are subject to the same provisions of and will have the same responsibilities as if they were an <i>Advisory Committee</i> of Council.

## 5.0 Policy owner

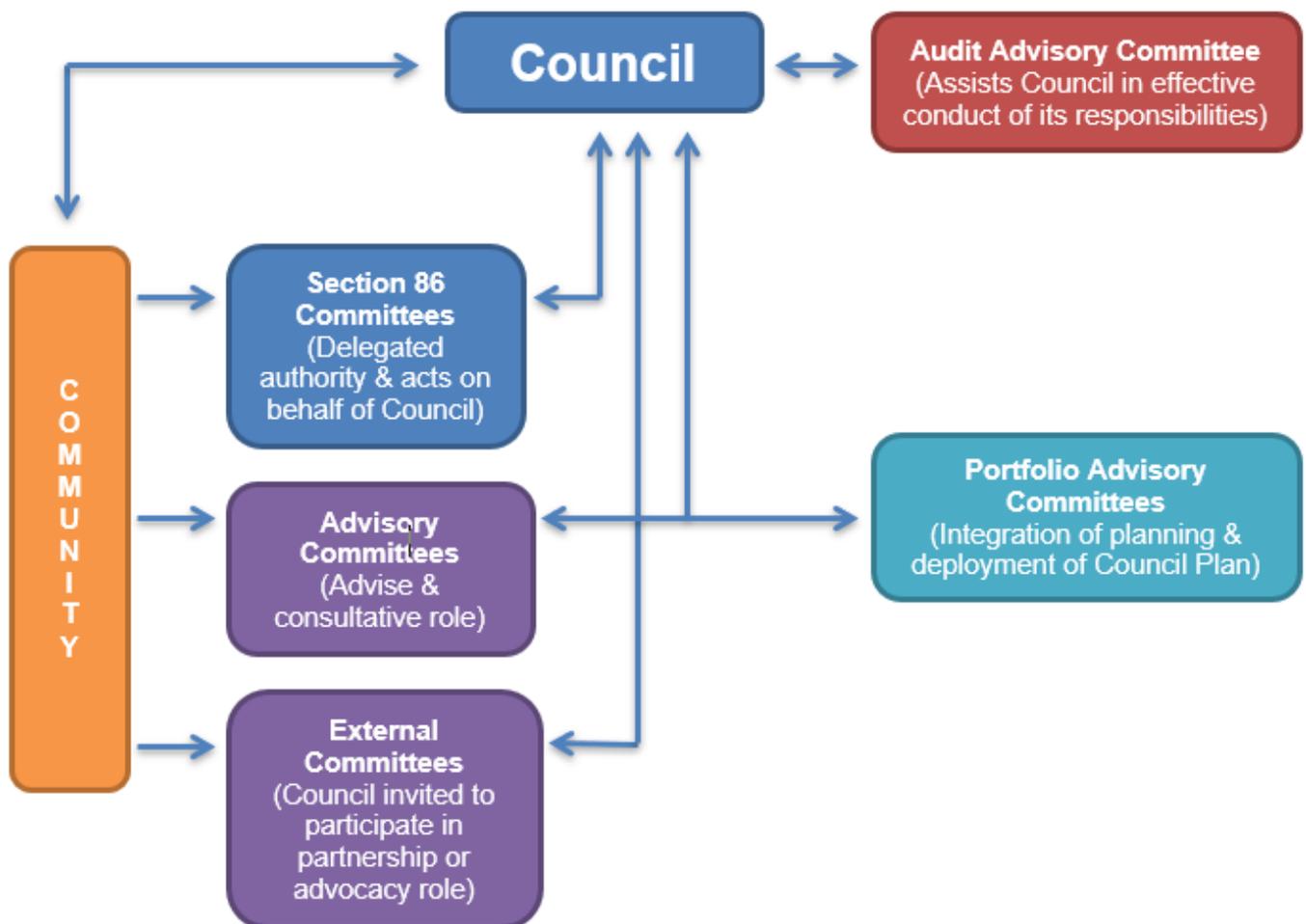
Chief Executive Officer

## 6.0 Authorisation

Adopted by Ballarat City Council, 30 October 2019. R287/19

## 7.0 Appendices

### 7.1 Diagram of committee relationships with Council, Officers and the community



## 7.2 Assembly of Councillors Record



### ASSEMBLY OF COUNCILLORS RECORD

This record must be completed by the attending Council Officer and returned to the Statutory Compliance Unit within 48 hours after the meeting for recording in the register.

Description of meeting:				
Date of meeting:				
Start time:				
Finish time:				

Councillors present:				
[Insert Councillor name]				
Apologies:				
[Insert name]				
Council staff present:				
[insert name] – [position]				
Other attendees present:				
[insert name]				

Conflict of Interests:				
<p>Pursuant to Sections 77, 78 and 79 of the <i>Local Government Act 1989</i> (as amended), if a Councillor has a conflict of interest in a matter which is to be considered or discussed at a meeting, the Councillor must, if he or she is attending the meeting, disclose the conflict of interest.</p> <p>A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.</p>				
Name of person(s) declaring the conflict	Type & details declared	Left Meeting Yes/No	Time left	Time returned
[insert name]	[insert type & details declared]	[Yes/No]	[Insert Time]	[Insert Time]

Matters Considered: <i>*Provide dotz points of matters discussed.</i>
<ul style="list-style-type: none"> <li>[list matters considered]</li> <li>[list matters considered]</li> <li>[list matters considered]</li> </ul>

Record completed by:	
Signed:	Position:
Name:	Date:

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Assembly of Councillors Record
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