

Election Period Policy

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REVISION RECORD

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| February 2016 | 1 | Policy adopted in line with statutory requirements |
| November 2019 | 2 | Policy reviewed as required by legislation |
| April 2020 | 3 | Policy reviewed to satisfy requirements of <i>Local Government Act 2020</i> (Vic) |

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1. Introduction

The *Local Government Act 2020*(Vic) ('the Act) requires that Council adopts an election period policy which is to include:

- (a) Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- (b) Procedures intended to prevent any appointment or remuneration of a Council Chief Executive Officer, but not an Acting Chief Executive Officer;
- (c) The prevention of any Council expenditure exceeding one percent of Council's income from rates, municipal charges and service rates in the preceding financial year;
- (d) Limits on public consultation and the scheduling of Council events; and
- (e) Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

A copy of this policy must:

- a) Be given to each Councillor as soon as practicable after it is adopted; and
- b) Be available for inspection by the public at the Council office; and
- c) Be published on the Council's internet website.

2. Purpose

This policy has been adopted by Council in compliance with the requirements of sections 60 and 69 of the *Local Government Act 2020* (Vic) (the Act). The policy aims to provide assurance that general elections for Maribyrnong City Council are conducted in a manner that is fair, equitable and transparent.

3. Scope

This policy applies to all Councillors and Council Officers including temporary, contract and contract employees.

4. Definitions

Certification means approved material by the Chief Executive Officer (CEO) for publication during the election period.

Electioneering means any action, statement and/or publication which contains material directly related to a Councillor's re-election, or a candidate's election.

Election period, also known as the caretaker period, means be the 32 day period that starts on the last day of nominations and ends at 6pm on Election Day (section 3(1) of the Act).

Electoral advertisement means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

Electoral matter means any matter which is intended or likely to affect voting in an election, but does not include any electoral material produced by, or on behalf of, the Returning Officer for the purposes of conducting an election.

Inappropriate decision include any decision that:

- would affect voting in an election;
- could reasonably be made after the election; or
- otherwise breach this Policy

Major policy decision means any decision that include:

- The employment or remuneration of the CEO.
- Contracts exceeding specified values.
- Entrepreneurial ventures exceeding specified values.
- Major policy decisions.
- Significant decisions.
- Inappropriate decisions.
- Decisions which unreasonably commit the incoming Council.

Public consultation means a process which involves an invitation or invitations to individuals, groups, organisations or the community in general, to comment on an issue, proposed action, or proposed policy.

Publish means publish by any means, whether in hard copy or electronically, including publication on the internet.

Significant decisions include any decision that may:

- irrevocably commit the Council to substantial expenditure or to other significant actions; and/or
- have an irrecoverable and significant impact on the municipality or a significant section of the community.

5. Responsibility

The Corporate Services Directorate will be responsible for the Election Period Policy, and ensure its dissemination throughout the organisation in a timely manner.

6. Policy

6.1 Council Decisions

During the Election Period the Council will not make a major policy decision. This includes decisions at Council Meetings and Delegated Committee Meetings or decisions by Council staff as delegates made through Council's formal instrument of delegation processes. In the case of a major policy decision, which is not significantly prohibited under the Act, the CEO will consider a number of factors in making a determination and may only allow such a decision to be considered if the decision/issue:

- a. Is urgent;
- b. Cannot be reasonably deferred without significant consequences to the Council or the community of Maribyrnong; and
- c. Relates to the completion of activity already endorsed by Council eg: via the Budget, Council Plan, Business Plan, 10 Year Plan, or other Council Strategic Objective etc.

As per section 69 of the Act, Council is prohibited from making decisions during the election period that:

- relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
- commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- the Council considers could be reasonably deferred until the next Council is in place; or the Council considers should not be made during an election period.

Council and Delegated Committee Meeting Agendas during the election period will be carefully vetted to ensure that no items are included that could potentially influence voters' intentions at the forthcoming election or could encourage councillor candidates to use the items as part of their electioneering.

The types of decisions that will be avoided during the election period include allocating community grants or other direct funding to community organisations, major planning scheme amendments and changes to strategic objectives and strategies in the council plan.

Council makes a commitment to prevent inappropriate decisions and that the decisions that will be made during the election period will be made if absolutely necessary for operational purposes or pursuant to a statutory requirement.

All Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

Should Council consider that there are extraordinary circumstances where the City of Maribyrnong's community would be significantly disadvantaged by the Council not making a particular major policy decision, the Council will, by formal resolution, seek an exemption from the Minister for Local Government in accordance with section 69 of the Act.

6.2 Election Period Statements

During the election period, the Chief Executive Officer will ensure that an election period statement is included in every Agenda submitted to a Council or Delegated Committee Meeting for decision. The election period statement will appear at the start of the Agenda and will state:

- *“The recommended decisions on all reports in this Agenda do not fall within the definition of a major policy or inappropriate decision, as defined in section 69 of the Local Government Act 1989 or a significant decision within the meaning of this Election Period Policy”.*

Should any report be presented to the Council or a Delegated Committee during an Election Period, which is considered to fall within Section 69 of the Act, this will be clearly indicated with a statement both at the commencement of the agenda and at the heading of any such report which will also indicate any exemptions granted by the Minister in accordance section 69 of the Act.

6.3 Resources

This section is to be read in conjunction with the Councillor Support and Expenses Policy. Councillors must also comply with the provisions of the Act and with Councillors' own adopted Code of Conduct, to avoid breaches of the Act, challenges brought on by other parties, and/or significant penalties being imposed.

Council and Councillors will ensure that due propriety is observed in the use of all Council resources during the election period. Council resources include financial, human (e.g. a staff member's or a consultant's time) and material resources. In circumstances where it is unclear if the use of Council resources is related, or may be perceived as being related, to a candidate's election campaign, the use should be referred to the CEO for a determination.

6.3.1 Council Branding and Stationary

No Council logos or letterheads can be used for, or linked in any way to, a candidate's election campaign.

Use of logos, branding and stationery – hardcopy or electronic – is permitted for normal Council business only.

6.3.2 Photographs and Images

Photographs and images paid for by Council or developed/taken by Council Officers are not to be used in electoral material for any candidate. This includes images of Councillors, events and the physical realm.

6.3.3 Councillor Issued Communications

Councillors, like other candidates, are permitted to issue their own media releases provided they do not use Council resources, including email, fax, logo or any branding, letterhead or any Council owned device. Councillors and candidates must make it clear that the views expressed are personal views only, and not the views of the Council.

Councillors are not permitted to comment in an official capacity about an issue raised by the media during the election period. However, if media outlets contact Councillors or candidates directly for a comment about an issue during the election period, Councillors and candidates are able to comment, provided they make it known to media outlets that the views expressed are personal views only, and not the views of Council.

Any Councillor requests for media advice, comment or assistance from staff during the election period will be referred to the CEO or delegate. Council Officers cannot provide media advice or assistance to Councillors in relation to election issues, issues that could be perceived as political or in regard to publicity that involves specific Councillors or candidates.

6.3.4 Council Websites and Social Media

Council will vet the existing publications and online information before the election period commences and, where appropriate, temporarily withdraw any material that might reasonably influence the election.

During the election period, newly published material about Councillors will be restricted to names, contact details and titles only on Council's websites and will only be published when absolutely necessary to fulfil Council's operational responsibilities or statutory obligations. Stories about, or reference to, a specific Councillor other than the information detailed above is not permitted.

The election period provisions do not apply to Council agendas and minutes, and these will continue to be published during the election period.

Council's social media sites such as Facebook, Twitter and YouTube, will continue to be a corporate voice for Council, and not be used for any electioneering purposes by Councillors or Council staff.

Individual Councillors achievements, or any material considered campaign material, will not be published on any of Council's social media websites.

Council's social media sites will be monitored for electioneering material and any inappropriate posts will be removed, as soon as practicable.

6.3.5 Council funded services

Council funded services such as mobile phones, office space, IT equipment, mayoral vehicle, and where it is impractical for Councillors to discontinue their use of these during the election, may continue to be used for normal Council business only during the election period and must not be used in connection with a candidate's election campaign.

6.3.6 Use of the Title 'Councillor'

Councillors may use the title 'Councillor' in their election material, as they continue to hold office during the caretaker period.

Councillors should ensure that any election publication using the title 'Councillor' clearly indicates that it is their own material and does not represent Council.

6.3.7 Reimbursement of expenses

Reimbursement of Councillors' out of pocket expenses during the election period will continue to apply for costs which have been incurred in the performance of normal Council duties, but not for expenses that could be perceived, in the opinion of the Chief Executive Officer, as supporting or being connected with a candidate's election campaign.

6.4 Information

6.4.1 Access to Information

As Councillors must continue to perform their elected role during the election period, they will, as a matter of course, receive all necessary information for them to fulfil that role. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.

All requests received by Council staff for information about Council projects, programs or services will be responded to in a 'business as normal' manner. This means up to date responses will be provided about progress on Council projects or services to Councillors, candidates or citizens.

Council staff will provide accurate and complete information, however, a 'business as normal' approach does not include extensive research or analysis involving significant Council resources, or providing a level of information which would not normally be available.

The Council affirms that all candidates for the Council election will be treated equally. Any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the CEO or delegate.

6.4.2 Request for Information Register

During the election period, a request for information register will be maintained by Council's Governance Unit. This register will be a public document that records all requests relating to electoral matters, routine and non-routine requests for information by Councillors and candidates, as well as the responses provided.

All requests for information are to be directed to the Chief Executive Officer in written format.

6.5 Public Consultation, Meetings and Events

6.5.1 Public Consultation

Public consultation will be limited during the election period, with the exception of consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of *the Local Government Act 1989*.

Public consultation may be undertaken during the election period, providing it is to facilitate the day to day business of Council, to ensure matters continue to be proactively managed. Public consultation will avoid any express or implied links to the election.

Prior to any public consultation being undertaken, CEO approval will be required.

Public consultation on significant matters affecting Council will also be avoided in the lead up to the election period where possible to mitigate the risk of influencing the election.

6.5.2 Public Meetings and Events

Public meetings or events will only be conducted by the Council administration if they are part of the normal services or operation of Council, however these will be kept to a minimum.

When attending any Council meeting or event, Councillors are reminded that they are representing Council and are not permitted to raise electoral matters or issues. Councillors and candidates are prohibited from using such forums and meetings for electioneering purposes, including handing out election material.

During the election period, Council events will not provide an official role for Councillors, such as speeches, master of ceremony etc, although Councillors will be invited to attend in their official role. The CEO or delegate will perform any required ceremonial function.

6.6 Publications

6.6.1 Council Issued Communications

Media releases, photo opportunities and advertising that contains general ongoing Council news, or information about the election process, but does not refer to, or quote, or feature Councillors is permitted, subject to certification by the CEO.

Media releases and advertising containing any issue, policy or electoral matter relating directly to a sitting and/or retiring Councillor are not permitted. This includes general information, quotes or photographs.

All media releases, responses or statements during the election period will be issued in the name of the CEO. The CEO or delegate is able to respond to questions from the media. Council is constrained in the content of media releases it can issue via the CEO.

General stories and photographs about Council services and issues that do not contain electoral matter are permitted, subject to certification by the CEO.

Councillor photographs, Councillors in advertisements, stories about Councillor achievements, or issues that are defined as electoral matter are not permitted.

6.6.2 Approval of Publications

All publications to be issued during the election period are to be forward to the relevant Manager for approval, and then sent to the Governance unit for vetting for electoral matter. Once vetted, the publication will then be forwarded to the relevant Director for approval prior to publication.

The process aims to ensure that Council issued publications including advertisements, media releases, fliers etc issued during the election period do not contain electoral matter.

Documents published before the election period commences (but still available after commencement, for example on the Council's website) do not require certification and are not caught by the prohibition on publishing and distributing material likely to influence voting at the election during the election period.

Statutory documents permitted under legislation (such as rate notices, food premises registration and parking fines) may continue to be disseminated by Council during the election period without limitation.

It should be noted that the Annual Report must not include material that is considered electioneering, or that publicises the attributes or achievements of individual Councillors.

7. Review

This policy will be reviewed in accordance with sections 60 and 69 of the Act or as required.

8. Related Legislation

Local Government Act 2020 (Vic).

9. Related Documents

Department of Planning and Community Development's Governance Practice Note No. 5.

Councillor Code of Conduct.

Councillor Support and Expenses Policy

Employee Code of Conduct.

Order in Council, Gazette Number G32, 7 August 2008, page 1908.

Department of Environment, Land, Water and Planning – A guide for councils - Reforms Arising from the Local Government Amendment (Improved Governance) Act 2015