

Chapter 7 – Election Period Policy

COUNCIL POLICY		
Election Period Policy	Policy No:	
	Adopted by Council:	16 November 2022
	Next review date:	2027
Senior Manager:	Chief Executive Officer	
Responsible Officer:	Director Corporate and Community Services	
Functional Area:	Corporate and Community/Governance	

1. Introduction & Background

Section 69 of the *Local Government Act 2020* requires all Councils to adopt and maintain an Election Period Policy to explain to their communities how they will conduct their business immediately prior to a general election.

This Election Period Policy (the Policy) will ensure:

- a) Council elections are not compromised by inappropriate electioneering by existing Councillors;
- b) actions and decisions which could be perceived as influencing voters are avoided;
- c) the authority of the incoming Council is not compromised by inappropriate decisions of the outgoing Council;
- d) all candidates are treated equally; and
- e) Council staff are provided with guidance on relevant matters.

2. Relevant reference material

This Policy has been developed having regard to:

- a) the *Local Government Act 2020* (the Act);
- b) the *Local Government (Electoral) Regulations 2020*;
- c) the Councillor Code of Conduct; and
- d) the Code of Conduct for Council staff.

3. Purpose

This purpose of this Policy is to:

- a) provide a framework for Councillors and staff and outline expected behaviours for the conduct of Council business during the lead-up to the general election in 2024; and
- b) ensure that the election is conducted in a transparent and accountable manner, the highest standards of governance are achieved and the statutory requirements of the Act and Regulations are met.

Council is committed to ensuring that:

- a) the ordinary business of local government in West Wimmera continues throughout the *election period* in a responsible and transparent manner and in accordance with statutory requirements;
- b) the ongoing ordinary business of Council is kept separate from Councillors' activities which relate to the election; and
- c) public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

4. Definitions

In this Policy, the following terms have the meaning indicated:

- a) *election period* means (in accordance with section 3(1) of the Act) the period that:
 - i. starts at the time that nominations close on nomination day; and
 - ii. ends at 6:00pm on election day;
- b) *electoral matter* means 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 Victorian Electoral Commission or the Election Manager for the purposes of conducting the election. *Electoral matter* includes, but is not limited to, matter that is intended to or is likely to affect voting in an election if it contains an express or implicit reference to or comment on:
 - i. the election;
 - ii. a candidate at the election; or
 - iii. an issue submitted to or otherwise before the voters in connection with the election; and
- c) *major decision* has the meaning set out in clause 5.3.

5. Policy Details

5.1 General

The Policy addresses decision making, use of Council resources, Council publications and media and communications issues during the *election period*.

All Councillors will be considered as being election candidates until the close of nominations.

5.2 Preventing Inappropriate Decisions and Misuse of Resources

Given the relatively short *election period*, Council will reschedule *major decisions* until after the new Council commences its term, or if that is not appropriate, bring decisions forward so they are determined before prior to the *election period*.

Council will continue to hold Council meetings during the *election period*, however, the decisions described in clause 5.3 will not be made during the *election period*.

5.3 Major Decisions

In accordance with section 69(2)(a) to (d) of the Act, the Council will not make *major decisions* which:

- a) relate to the employment or remuneration of a Chief Executive Officer (CEO), other than a decision to appoint an acting CEO; ¹
- b) commit 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; ²
- c) the Council considers could reasonably be deferred until the next Council is in place; and
- d) the Council considers should not be made during an *election period*.

In addition to the statutory provisions, Council will not make decisions during an *election period* relating to:

- a) the allocation of community grants or other forms of direct funding to community organisations;
- b) major planning scheme amendments;
- c) changes to strategic objectives or strategies in the Council Plan;
- d) the adoption of any strategic plans or policies required by legislation; or
- e) decisions of a significant nature, including but not limited to, significant financial commitments which would unnecessarily bind an incoming Council.

¹ A Council decision made in contravention of section 69(2)(a) of the Act is invalid.

² A Council decision made in contravention of section 69(2)(b) of the Act is invalid.

Papers prepared for Council meetings during the *election period* will be carefully vetted by the CEO to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering. Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

5.4 Legislative Provisions

The Act provides that a Councillor or member of Council staff must not:

- a) use Council resources in a way that is intended to or is likely to affect the result of an election under the Act. (Section 304{1}); or
- b) use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the *election period* on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or Regulation. (Section 304{2}).

Penalty: 60 penalty units. ³

5.5 Use of Council resources

Council resources must not be used in any way that would influence the way people vote in elections or give Councillors any inappropriate real or perceived electoral advantage. The following guidelines will ensure that due propriety is observed in the use of and access to staff, property, equipment and other resources during the *election period*:

- a) Councillors will continue to be provided with resources to continue to perform their elected role; and
- b) Council resources, including officers, support staff, email services, equipment (ie: computers, ipads, photocopiers, motor vehicles), branding and stationery, are only to be used for normal Council business and are not to be used for any election campaign activities.

Council logos, letterheads, uniforms or other Council branding will not be used for, or linked in any way to, a candidate's election campaign.

Council staff must:

- a) avoid assisting Councillors or other candidates in ways that are or could create a perception that they are providing information or assistance for electoral purposes;
- b) report any interest in being involved privately in the election campaign of any candidate to the CEO;
- c) not provide any information to any candidate or prospective candidate other than information that is available to the general public and will direct all election enquiries to the Election Manager;

³ In 2022/23 a penalty unit is \$184.92. Penalty units are indexed annually on 1 July.

- d) report to the CEO when the use of Council resources might be construed as being related to a candidate's election campaign;
- e) not make any public statement that relates to an election issue unless such statement has been approved by the CEO; or
- f) not act as a scrutineer for any candidate.

In addition, Council staff are discouraged from:

- a) being involved in a candidate's election campaign;
- b) contributing financially to a candidate's election campaign; or
- c) promoting candidates in social media.

Councillors must:

- a) not use Council resources for any election campaign activities. Such resources include, but are not limited to a Council provided motor vehicle, IT equipment, telephone and stationery;
- b) not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign;
- c) not ask Council staff to undertake any tasks indirectly or directly connected with their election campaign;
- d) not exert undue influence over the timing of works or the delivery of Council services that may result in a benefit for electoral purposes; and
- e) comply with the provisions of the Act relating to misuse of position.

5.6 Public consultation and Council events

Council will not conduct community forums during the *election period*.

Question time at Council meetings will not be held during the *election period*.

Consultation is an integral part of Council's policy development process and operations.

Consultation undertaken close to a general election may be perceived as an election issue and influence voting.

Issues raised through the consultation and decisions that follow may also unreasonably bind the incoming Council.

Accordingly, consultation will not take place during the *election period* unless in relation to a statutory requirement which cannot be deferred.

Where Council auspiced community events are held and whether or not a Councillor is to make a speech, Councillors will be reminded that they are representing Council and are not to use the opportunity for electioneering.

Functions or events for the purpose of electioneering must not be resourced or publicised by the Council.

5.7 Access to Council information

The following guidelines will ensure that due propriety is observed in the use of and access to information during the *election period*:

- a) Councillors may continue to access Council held documents during the *election period*, but only as is necessary for them to perform their elected role and functions, such as in relation to matters before the Council or likely to come before the Council; and
- b) information and briefing material prepared and provided to Councillors must be necessary to the carrying out of the Councillor's role and must not be used for election purposes.

5.8 Council Publications

The Act imposes limitations during the *election period* to ensure the Council does not publish material with public funds that may influence or be seen to influence people's voting decisions.

Accordingly, Council staff will avoid all publication activity, including updated or new information added to the Council website during the *election period* except where printing, publishing or distributing a document is essential for the conduct of Council operations.

5.9 Annual Report

Council will produce its 2023-2024 Annual Report and submit it to the Minister for Local Government in accordance with the Act. The Annual Report may be published during the *election period* and will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors but will fulfil its statutory obligations on reporting matters.

5.10 Other

Electoral material, including pamphlets, posters and notices will not be visible or available at any Council premises, including libraries, during the *election period*, except for material issued by the Election Manager for the purpose of conducting the election.

Councillors may use the title 'Councillor' in their election material as they continue to hold the position in the period, however to avoid confusion, Councillors must ensure that any election publication using the title Councillor clearly indicates that it is their own material and does not represent Council.

Requests for information from candidates which would substantially and unreasonably divert Council resources in order to respond or which might be perceived to support an election campaign will be referred to the CEO for consideration.

5.11 Expenses incurred by Councillors

Claims for the reimbursement of expenses shall only relate to expenditure incurred whilst conducting Council business in accordance with the Council's *Expenses Policy* and not election activities.

5.12 Media/Communications issues

During the *election period*, all official media releases will only be approved by the CEO.

Media releases or other media statements will not refer to specific Councillors or feature any photograph, quotation or name of Councillors during the *election period*. Where it is necessary to make or clarify any public statement, comment on sensitive or political issues or identify a spokesperson in relation to an issue, the matter must be referred to and approved by the CEO.

Media releases dealing with their election campaign must be issued by Councillors privately. Statements must be clearly communicated as personal opinion which do not represent the views of the Council.

Any publication on social media sites which are auspiced by the Council is to be approved by the CEO.

Council staff will monitor Council social media sites during the *election period* to ensure no electoral material is posted or if posted, is removed.

5.13 Council staff

Council staff will not provide advice or assistance in the preparation of media releases or other media statements that contain electoral material.

Council staff must not make any public statement that can be interpreted as a political comment or have an influence on the electoral process.

5.14 Notices of Motion

Notices of motion will not be considered during the *election period*.

5.15 Council's Website

Council's website:

- a) will not be used to convey information that could be regarded as electoral material but will contain information about the election process; and
- b) will be checked at the start of the *election period* to ensure that any information that might be regarded as likely to influence how people vote will be removed, including photographs of Councillors at public events. Profiles of Councillors will also be removed but contact details and photographs will remain.

5.16 Responsibilities

The CEO is responsible for overseeing adherence to the Policy.

Councillors and staff are responsible for reporting any breach or suspected breach of this Policy to the CEO.

5.17 Penalties

Section 304 of the Act provides:

(1) A Councillor or member of Council staff must not use Council resources in a way that:

(a) is intended to; or

(b) is likely to

affect the result of an election under this Act. (Penalty: 60 penalty units). ⁴

(2) A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation. (Penalty: 60 penalty units).

5.18 Policy Access

The Policy will be published on the Council's website and be available in hardcopy for public inspection. Copies will be made available to each Councillor on Docs on Tap.

5.19 Review

Following the 2024 General Election, Council will, in accordance with its *Community Engagement Policy*, review and update the Policy no later than 12 months before the 2028 general election.

5.20 Policy Amendments

Minor amendments to the Policy may be made by the CEO to reflect legislative or organisational changes. The CEO must notify the Councillors of any such amendments.

6 Charter of Human Rights Compliance

This Policy does not impact on any human rights identified in the *Charter of Human Rights & Responsibilities Act 2006*.

⁴ See Footnote 3.