

11. ELECTORAL CARETAKER PERIOD

Policy Objective

This Policy establishes protocols for the purpose of preventing actual and perceived advantage or disadvantage to a candidate in a local government election due to the use of public resources or from decisions made by the Council or administration on behalf of the City during the period immediately prior to an election.

Policy Statement

To ensure the City's activities, and those of Elected Members who are candidates in local government elections, are undertaken in a manner that supports a high standard of integrity during local government election periods.

Policy Detail

This policy applies to Elected Members, electoral candidates and employees of the City during a Caretaker Period and covers:

- Decisions made by the Council.
- Promotional materials published by the City.
- Discretionary community consultation.
- Events and Functions held by the City.
- Use of the City's resources.
- Access to information held by the City.

1. Caretaker Period Protocols – Decision Making

i. Notice of Caretaker Period and Policy requirements

The CEO will ensure that:

- a) Elected Members and employees are advised in writing of the impending Caretaker Period and Policy requirements at least 30 days prior to the commencement of a Caretaker Period.
- b) Candidates are provided with a copy of this Policy at the time of their nomination for election, to ensure their awareness of the Policy requirements.

ii. Scheduling Major Policy Decisions

The CEO will use reasonable endeavours to ensure that during a Caretaker Period, unless Extraordinary Circumstances apply:

- a) Council or Committee agendas do not include any report or recommendation that if adopted would constitute a Major Policy Decision.

- b) Council forums, workshops or briefings, do not list for discussion any matter that relates to any Major Policy Decision.

The CEO shall use reasonable endeavours to ensure that, unless Extraordinary Circumstances apply, Major Policy Decisions are either:

- a) Considered by the Council prior to the Caretaker Period; or
- b) Scheduled for determination by the incoming Council following the Election Day.

iii. Managing CEO Employment

Major Policy Decisions relating to the recruitment or termination of the CEO shall not be taken during a Caretaker Period.

Nonetheless, Council in satisfaction of its obligations as the CEO's employer during a Caretaker Period:

- a) May consider and determine:
 - (i) appointment of an Acting CEO, where necessary;
 - (ii) suspension or termination of the current CEO, but only where appropriate in all the circumstances and in accordance with the terms of the CEO's contract;
 - (iii) the CEO's leave applications; or
 - (iv) any other incidental employment matter associated with the CEO including finalisation of the CEO Annual Performance Appraisal process.
- b) May not initiate a new CEO recruitment process.

2. Caretaker Period Protocols – Candidates

i. Election process enquiries

All election process enquiries from candidates, including Elected Members who have nominated for re-election, will be directed to the Returning Officer, or where the matter is outside the responsibility of the Returning Officer, to the CEO.

ii. Access to Information

Candidates, including Elected Members who have nominated for re-election, shall be provided with equitable access to the City's public information.

Elected Members nominating for re-election, may access information and assistance regarding the City's operations and Council matters during a Caretaker Period, but only to the extent necessary to perform their role as a Councillor and limited to matters currently relevant to the City.

Candidates, including Elected Members who have nominated for re-election, will not use or access City information, resources or employee resources and expertise for the purpose of gaining electoral advantage or disadvantage relevant to their own candidacy or any other person's candidacy.

All requests for information and advice from the City will be reviewed by the CEO. Where the subject of the information or advice is considered to relate to an election campaign matter, the CEO will have absolute discretion to determine if the information or advice is or is not provided. Where information is provided to one candidate, the CEO may determine if that information is also to be provided to all candidates, including candidates who are not current Elected Members.

iii. Candidate Electoral Materials

Candidates, including Elected Members who have nominated for re-election, are prohibited from using the City's official crest or logo in any Electoral Materials.

iv. Media and Publicity

All elected member requests for media advice or assistance during a Caretaker Period, will be referred to the CEO for review.

The CEO will only authorise elected member access to media advice or assistance where, in the CEO's opinion, the subject matter is relevant to the City's objectives or operations and is not related to an election campaign purpose or issue or to the elected member's candidacy or the candidacy of another person.

v. Elected member business cards and City printed materials

Elected Members must ensure that City business cards and printed materials are only used for purposes associated with their role of a Councillor, in accordance with section 2.10 of the *Local Government Act 1995*.

Elected Member are prohibited from using City business cards or City printed materials that are not available as a public document at any time, including times outside a Caretaker Period, for any election campaign purpose, either in support of their own candidacy or the candidacy of another person.

vi. Elected Member participation in Events and Functions

During a Caretaker Period Elected Members may continue to fulfil their role through attendance at Events and Functions hosted by external bodies.

vii. Elected member delegates to external organisations

At any time, including times outside of a Caretaker Period, Elected Members who are the Council's appointed delegate to an external organisation, must not use their attendance at an external organisation's meeting, event or function for any purpose associated with an election campaign purpose, including recruiting campaign assistance or promoting their own candidacy or the candidacy of another person.

viii. Elected member addresses/speeches

Excluding the Mayor and Deputy Mayor when fulfilling their functions prescribed in sections 2.8 or 2.9 of the *Local Government Act 1995*, Elected Members who have nominated for re-election, are not permitted to make speeches or addresses during a Caretaker Period at events or functions organised or sponsored by the City, unless expressly authorised by the CEO.

In any case, the Mayor, Deputy Mayor and Elected Members shall not use any official speech or address during a Caretaker Period to promote an election campaign purpose.

ix. Elected member misuse of local government resources

Use of City resources by an elected member for the purpose of persuading electors to vote in a particular way is a “misuse of Local Government resources” and a breach of Regulation 17 of the *Local Government (Model Code of Conduct) Regulations 2021*.

This prohibition on misuse of local government resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.

For clarity, local government resources include, but are not limited to, employee time or expertise, equipment, stationery, hospitality, images, communications, services, reimbursements and allowances provided by the City.

Note: Refer also to Policy 12 – Governance Services to Elected Members – Local Government Election Year.

3. City Publicity, Promotional and Civic Activities

Publicity campaigns and promotional activities during a Caretaker Period may be undertaken only for the purposes of:

- i. Promoting City services and activities, where such promotion does not relate to an electoral campaign matter and would otherwise be undertaken as part of normal operations; and
- ii. Conducting the election and promoting elector participation in the election.

All other publicity and promotional activities of City initiatives will be, where reasonably practicable, avoided during the Caretaker Period, including the announcement of Major Policy Decisions made prior to the commencement of a Caretaker Period or proposed to be made after a Caretaker Period.

The CEO may determine if Extraordinary Circumstances apply and if a Major Policy Decision announcement is necessary during a Caretaker Period.

4. Civic Events and Functions

The City will avoid the scheduling of Civic Events and Functions during a Caretaker Period, so as to prevent any actual or perceived electoral advantage that may be provided to Elected Members who have nominated for re-election, with the exception of the Annual Mayoral Dinner.

Civic Events and Functions organised by the City and held during the Caretaker Period will be reduced to only those essential to the operation of the City and should not in any way be associated with any issues considered topical and relevant to the election or be used as a forum for political canvassing.

5. City Website and Social Media Content

- i. The City's website and social media shall comply with the requirements of this Policy.

Website and social media content regarding Elected Members will be limited to: elected member names, contact details, membership of committees and Council appointments as City delegates on external committees and organisations.

- ii. New website or social media content which relates to Major Policy Decisions or election campaign issues will not be published during a Caretaker Period, unless Extraordinary Circumstances apply.

- iii. Content posted by the public, candidates or Elected Members on the City's social media channels, which is considered by the CEO to be candidate election campaign material or to promote any candidate, will be removed.

6. Community Consultation

Unless consultation is mandated under a written law or Extraordinary Circumstances apply, Public Consultation relevant to Major Policy Decisions or potentially contentious election campaign issues will not be initiated in a manner that results in the consultation period being conducted immediately prior to, throughout or concluding during, a Caretaker Period.

Reference / Associated Documents

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Local Government (Model Code of Conduct) Regulations 2021

Local Government (Elections) Regulation 1997

City of Belmont Code of Conduct for Council Members, Committee Members and Candidates

Policy 12 – Governance Services to Elected Members – Local Government Election Year

Reference to Internal Procedure

Work Instruction

Definitions

‘Caretaker Period’ means the period of time prior to an Election Day, specifically being the period from the close of nominations (37 days prior to the Election Day in accordance with s.4.49(a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

‘CEO’ means the Chief Executive Officer of the City.

‘City’ means the City of Belmont.

‘Election Day’ means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election, including but not limited to an extraordinary election.

‘Electoral Material’ means any advertisement, handbill, pamphlet, notice, letter, email, social media post, article or other communication that is intended or calculated to affect an election result, but does not include:

1. an advertisement in a newspaper announcing the holding of a meeting (s.4.87 (3) of the *Local Government Act 1995*); or
2. any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
3. any materials produced by the City relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

‘Events and Functions’ means gatherings for the purpose of discussion, review, acknowledgement, communication, consultation, celebration or promotion, of any matter relevant to the City or its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions, including gatherings coordinated or facilitated by the City or an external entity.

‘Extraordinary Circumstances’ means a circumstance that requires the Council to make or announce a Major Policy Decision during the Caretaker Period because, in the CEO’s opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to:

1. incur adverse legal, financial or reputational consequences;
2. increase legal, financial or reputational risk; or
3. cause detriment to the strategic objectives of the City.

‘Major Policy Decision’ means any decision:

1. Relating to the recruitment or termination of the CEO other than a decision to appoint an Acting CEO, or suspend the current CEO in accordance with the terms of any applicable contract of employment.
2. Relating to the City entering into a sponsorship arrangement with a total City contribution that would constitute Significant Expenditure, unless the expenditure is included in the current approved annual budget.
3. Relating to the City entering into a commercial enterprise as defined by section 3.59 of the *Local Government Act 1995*.

4. That would commit the City to Significant Expenditure or actions that, in the CEO's opinion, are significant to the City's operations, strategic objectives or will have significant impact on the community and funds have not been allocated in the annual budget.
5. To prepare a report, initiated by an Elected Member, candidate or member of the public that, in the CEO's opinion, may be perceived as or is actually an election campaign issue.
6. Initiated through a notice of motion by an Elected Member, where the effect of that motion will change the status quo or, in the CEO's opinion, may be relevant to the circumstances described in Clauses 1 to 5 above.
7. That would adopt a new policy, service or service level or significantly amends an existing policy, service or service level, unless the decision is necessary to comply with legislation or the requirements of a public authority.
8. That initiates or adopts a new local planning scheme, amendment to a local planning scheme or planning policy.

but does NOT include any decision necessary in response to an emergency, declared by either the State or Federal Government or by the Mayor in accordance with s.6.8(1)(c) of the *Local Government Act 1995*.

'Public Consultation' means a process which involves an invitation to individuals, groups, organisations or the wider community to provide comment on a matter, proposed action or proposed policy, but does not include statutory consultation or submission periods prescribed in a written law.

'Returning Officer' means the returning officer appointed under section 4.20 of the *Local Government Act 1995*.

'Significant Expenditure' means expenditure that exceeds the tender threshold as prescribed in regulation 11(1) the *Local Government (Functions and General) Regulations 1996*.

Monitoring, Evaluation and Review

This policy has been risk assessed as Moderate.

The policy will be reviewed every two years.

THIS POLICY IS SUPPORTED BY:

REGISTER OF DELEGATIONS	N/A
SERVICE AREA:	EXECUTIVE SERVICES
POLICY OWNER:	MANAGER GOVERNANCE, STRATEGY AND RISK

AMENDMENT STATUS

DATE OF AMENDMENT	STATUS OF AMENDMENT	MINUTE ITEM REFERENCE
10/12/19	NEW	12.8
24/05/22	REVIEW - MINOR	12.7

NEXT REVIEW DATE	2023
------------------	------