



TITLE: CARETAKER POLICY

1. PURPOSE

To satisfy the statutory caretaker period requirements under Section 91A of the Local Government (Elections) Act 1999.

2. SCOPE – APPLICATION OF THIS POLICY

This policy applies throughout the election period for a general election. For the purposes of the Local Government Elections of November 2022, the policy commences on 6 September 2022 and ends at the conclusion of the election, when results have been declared.

This policy applies to:

- a. Council; and
- b. council staff

3. POLICY PRINCIPLES – OUR COMMITMENT

This policy implements the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999*.

4. DEFINITIONS

In this Policy:

Chief Executive Officer means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

council staff means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.

Council Member means an elected member of the Mount Barker District Council.

election period means the period commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election.

designated decision means a decision:

- a. relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct;
- b. to terminate the appointment of the Chief Executive Officer;

- c. to enter into a contract, arrangement or understanding (other than a contract for road construction, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year being **\$469,324**, except if the decision:
- i. relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* (SA), or under section 298 of the *Local Government Act 1999* (SA);
 - ii. is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
 - iii. relates to the employment of a particular Council employee (other than the Chief Executive Officer);
 - iv. is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
 - v. relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council;

general election means a general election of council members held:

- a. under section 5 of the *Local Government (Elections) Act 1999*; or
- b. pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the Local Government (Elections) Act.

5. ROLES & RESPONSIBILITIES

Council:

- Approve a Policy that clarifies Council's responsibilities during the Caretaker period.

Chief Executive Officer:

- Avoid scheduling significant decisions for consideration during the election period

General Managers:

- Ensure staff are aware of their responsibilities within the Caretaker Policy

6. POLICY STATEMENT

6.1 PROHIBITION ON DESIGNATED DECISIONS

- 6.1.1 The Council is prohibited from making a designated decision during an election period.
- 6.1.2 A decision of the Council includes a decision of:
- c. a committee of Council; and
 - d. a delegate of Council.

6.2 TREATMENT OF OTHER SIGNIFICANT DECISIONS

- 6.2.1 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions (including major policy decisions) for consideration during an 'election period' and ensure that such decisions:
- a. are considered by Council prior to the 'election period'; or
 - b. are scheduled for determination by the incoming Council.
- 6.2.2 A 'significant decision' is any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.
- 6.2.3 A 'major policy' decision includes any decision (not being a designated decision):
- a. to spend unbudgeted monies;
 - b. to conduct unplanned public consultation;
 - c. to endorse a new policy;
 - d. to dispose of Council land;
 - e. to approve community grants or ward donations;
 - f. to progress any matter which has been identified as an election issue; and
 - e. any other issue that is considered a major policy decision by the Chief Executive Officer.
- 6.2.4 The determination as to whether or not any decision is significant will be made by the Chief Executive Officer, after consultation with the Mayor.
- 6.2.5 The Chief Executive Officer must keep a record of all such determinations made by Chief Executive Officer and make this list available to candidates upon request.

- 6.2.6 Where the Chief Executive Officer has determined that a decision is significant, but circumstances arise that require the decision to be made during the election period, the Chief Executive Officer will report this to the Council.
- 6.2.7 The aim of the Chief Executive Officer's report is to assist Council Members assess whether the decision should be deferred for consideration by the incoming Council.
- 6.2.8 The Chief Executive Officer's report to Council will address the following issues (where relevant):
- a. why the matter is considered 'significant';
 - b. why the matter is considered urgent;
 - c. what are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council;
 - d. whether deciding the matter will significantly limit options for the incoming Council;
 - e. whether the matter requires the expenditure of unbudgeted funds;
 - f. whether the matter is the completion of an activity already commenced and previously endorsed by Council;
 - g. whether the matter requires community engagement;
 - h. any relevant statutory obligations or timeframes; and
 - i. whether dealing with the matter in the election period is in the best interests of the Council area and community.
- 6.2.9 Council will consider the Chief Executive Officer's report and determine whether or not to make the decision.

6.3 PROHIBITION ON THE USE OF COUNCIL RESOURCES

- 6.3.1 Council resources must not be used for the advantage of a particular candidate or group of candidates.
- 6.3.2 For clarity, neither the Local Government (Elections) Act 1999 nor this Caretaker Policy prohibits a council providing resources to all members of the public, which incidentally includes all candidates for election.
- 6.3.3 The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:

- a. Mobile phones
- b. Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (e.g. in a public library)
- c. Council-provided business cards
- d. Requests for service to council to perform tasks which would confer an advantage on a candidate or group of candidates
- e. The ability to issue invitations to council events
- f. Council travel arrangements (e.g. access to council-negotiated rates for flights, accommodation or hire cars)
- g. Access to areas that members of the public cannot access, including areas within the property of third parties
- h. Council produced promotional brochures and documents.

6.4 CONSEQUENCES OF CONTRAVENING THIS POLICY

- 6.4.1 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.
- 6.4.2 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this policy is entitled to compensation from the Council for that loss or damage.
- 6.4.3 A breach of this Policy is a breach of the Code of Conduct for Council Members and Code of Conduct for Council Employees.

6.5 APPLICATION FOR EXEMPTION

- 6.5.1 If the Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the Council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the Local Government (Elections) Act 1999 and this policy.
- 6.5.2 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the Local Government (Elections) Act 1999 and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

7. TRAINING / EDUCATION

Training will be provided to staff and council members.

8. REVIEW

This Policy will be reviewed:

- every four years; or
- the frequency dictated in legislation; or
- earlier in the event of changes to legislation or related Policies and Procedures; or
- if deemed necessary by the Risk & Governance Officer.

9. ACCESS TO THE POLICY

The Policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website www.mountbarker.sa.gov.au

10. FURTHER INFORMATION

For further information on this Policy, please contact:

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**11. ATTACHMENT LOCAL GOVERNMENT ASSOCIATION SA
CARETAKER GUIDELINES DECEMBER 2021**

REFERENCE NUMBER	DOC/21/211463		
PREVIOUS DOCUMENT NUMBER:	DOC/18/51464		
INTERNAL GOVERNANCE:			
Author	Sue Miller	Risk & Governance Officer	21 December 2021
Responsible General Manager:	Brian Clancey	Deputy CEO	January 2022
Reviewed by CEO	Andrew Stuart		January 2022
REVIEWED BY CGG			January 2022
APPROVED BY (DOCUMENT OWNER):	Council		
	OM20220117.09	17 January 2022	
APPLICABLE LEGISLATION AND RELATED DOCUMENTS:	Local Government Act (Elections) 1999 Statutes Amendment (LG Review) Act 2021 Local Government Act 1999 (SA) LGA Caretaker Guidelines (attached) Code Of Conduct Council Members Employee Code of Conduct		
COMMUNITY PLAN 2020-2035 REFERENCE:	Leadership and Good Governance		
REVIEW CYCLE	It is recognised that from time to time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a State or Federal Department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council (if statutory) or the Chief Executive Officer (if administrative).		
NEXT REVIEW DATE	May 2026		
DOCUMENT HISTORY:			
DOCUMENT VERSION	DATE	AUTHOR (PERSON TO WHOM CHANGES ARE TO BE RECOMMENDED)	NATURE OF CHANGE
VERSION 1.0	17 January 2022	Sue Miller	Updated to reflect Statutes Amendment (LG Review) Act 2021
DOCUMENT LOCATION:	Council website 4 February 2022		

	Available for inspection, downloading or printing from our website www.mountbarker.sa.gov.au
	This Policy is available for inspection, during business hours at: Mount Barker District Council, Level 1, 6 Dutton Road, Mount Barker

Caretaker Guidelines

December 2021



This resource has been prepared by the Local Government Association of SA (LGA) to assist councils with implementation of legislative changes arising from Local Government Reforms, incorporating advice from Norman Waterhouse Lawyers, for the guidance of and use by member councils.

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Local Government Association
of South Australia

LG Equip



1 Introduction

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the council and its staff during the election period for a general election.

On 10 November 2021, section 188 of the *Statutes Amendment (Local Government Review) Act 2021* (the Amendment Act) commenced, which amended section 91A—Conduct of council during election period of the Elections Act.

Section 91A(2) of the Elections Act stipulates that the caretaker policy must at a minimum:

- (a) prohibit the making of a designated decision; and
- (b) prohibit the use of council resources for the advantage of a particular candidate or group of candidates,

during an election period.

The Local Government Association of SA (LGA) has prepared a model caretaker policy on the basis of meeting the minimum legislative obligations under section 91A of the Elections Act. Councils may wish to incorporate additional requirements within any caretaker policy adopted.

These Caretaker Guidelines (the Guidelines) provide an overview of the scope and meaning of the legislative requirements under section 91A of the Elections Act and should be read in conjunction with the model caretaker policy. Terms which are defined in the model caretaker policy have the same meanings in the Guidelines.

2 Overview

Section 91A(2) of the Elections Act sets minimum standards for council caretaker policies.

Caretaker policies must at a minimum:

- prohibit the making of a designated decision during the election period; and
- prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

In considering how the policy applies to the prohibition on making designated decisions, regard must be had to three separate elements. In particular the following must be present:

- 1) a decision of council;
- 2) made during an election period;
- 3) which is a designated decision.

The caretaker policy must also prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

2.1 Decision of the council

Section 91A of the Elections Act applies to a decision of the council. This will include decisions made directly by the council at a meeting or indirectly through a council committee or other delegate or sub-delegate.

2.2 Election period

During an election period councils are prohibited from making designated decisions. The use of council resources for the advantage of a particular candidate or group of candidates is also prohibited. Council may apply in writing to the Minister for an exemption from the application of this section to a designated decision.

An election period:¹

- (a) commences on either:
 - (i) the day on which nominations for a general election close; or
 - (ii) if a council's caretaker policy specifies an earlier date, that date; and
- (b) expires at the conclusion of the general election.

Section 91A of the Elections Act does not apply to a decision that is announced during the election period but was made prior to the election period.

3 Designated decisions

Only specific types of decisions will be designated decisions under section 91A of the Elections Act. The designated decisions are outlined below.

The Elections Act stipulates that any designated decision made by a council during an election period without a ministerial exemption is invalid.

Any person who suffers loss or damage as a result of acting in good faith on a designated decision made in contravention of section 91A of the Elections Act is entitled to compensation from the council for that loss or damage.

3.1 Decisions relating to the employment of the Chief Executive Officer

Any decision relating to the employment, remuneration or termination² of the Chief Executive Officer, other than a decision to:

- (a) appoint an acting Chief Executive Officer; or
- (b) suspend a Chief Executive Officer for serious and wilful misconduct,³

will be a designated decision.

¹ Section 91A(8) *Local Government (Elections) Act 1999*

² Section 91A(8) *Local Government (Elections) Act 1999*

³ Regulation 12(1)(b) *Local Government (Elections) Regulations 2010*

3.2 Specific contracting decisions

Certain council decisions regarding specific types of contracts made during an election period will be designated decisions.

Generally, a decision to enter into a contract, arrangement or understanding (other than a 'prescribed contract') the total value of which exceeds whichever is the greater of \$100,000 or 1% of the council's revenue from rates in the preceding financial year⁴ will be a designated decision. However, there are exclusions from this general position provided in section 91A of the Elections Act and the *Local Government (Elections) Regulations 2010* (the Elections Regulations).

3.2.1 Prescribed contracts

Prescribed contracts are expressly excluded from the types of contracts which are able to be the subject of a designated decision. A 'prescribed contract' is defined in section 91A of the Elections Act to mean a contract entered into by a council for the purpose of undertaking road construction, road maintenance or drainage works.

3.2.2 Exemptions

Other types of contracts are excluded from being the subject of a designated decision by the Elections Regulations. These types of decision are decisions:

- (a) relating to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* or under section 298 of the *Local Government Act 1999* (the Local Government Act);
- (b) for an expenditure or other decision required to be taken under an agreement by which funding is provided to the council by the Commonwealth or State Government or otherwise for the council to be eligible for funding from the Commonwealth or State Government;
- (c) relating to the employment of a particular council employee (other than the Chief Executive Officer);
- (d) made in the conduct of negotiations relating to the employment of council employees generally, or a class of council employees, if provision has been made for funds relating to such negotiations in the budget of the council for the relevant financial year and the negotiations commenced prior to the election period; or
- (e) relating to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the council.

As set out above, the legislation does not prohibit a council from making a type of decision listed in the Elections Regulations. Councils should be mindful however of community perceptions and are encouraged to exercise care before proceeding with such a decision during a Caretaker Period.

⁴ Section 91A(8) *Local Government (Elections) Act 1999*

4 Prohibition on the use of council resources to give selective advantage

4.1 Scope of the prohibition

A council's caretaker policy must prohibit the use of council resources for the advantage of a particular candidate or group of candidates during an election period. A caretaker policy may however allow the equal use of resources by all candidates for election.

The prohibition does not prevent all candidates, including council members utilising council resources that are available to all members of the public.

Examples of this include a candidate using a council library public computer to design election campaign material and produce copies for distribution on a council photocopier (that is available to the general public). Candidates should not be given access to council facilities that are not available to other candidates.

There are constraints on the personal use of council resources under the Local Government Act and the Code of Conduct for Council Members. These provisions are discussed in section 4.5 of these guidelines.

4.2 What are 'council resources'?

'Council resources' is a broad concept which is undefined in the Elections Act. A general definition of the term 'resources' provided in the *Macquarie Dictionary* is '*the collective wealth and assets of a country, organisation, individual*'. Applying this definition, any asset or information owned or controlled by a council is a 'council resource'.

Council resources may include:

- (a) materials published by council;
- (b) facilities and goods owned by the council;
- (c) attendance and participation at functions and events;
- (d) access to council information; and
- (e) media services.

Council staff and contractors engaged by a council are also council resources.

4.3 Meaning of 'advantage'

The concept of 'advantage' is broad and is defined in the *Macquarie Dictionary* as '*any state, circumstance, opportunity, or means especially favourable to success, interest, or any desired end*'. In the context of section 91A of the Elections Act, the relevant advantage is in respect of being elected or re-elected.

An advantage will be conferred where council resources can be used, or the permissible uses of the resource favours, one (or some) candidates over others. An advantage arises when a candidate utilises resources, information or support that is not available to a candidate in an election who is not an existing council member.

The Ombudsman has given 'advantage' a broad interpretation. The Ombudsman's view is that any activity that gives a perception of favouring one candidate over another is an advantage.

In previous decisions of the Ombudsman:

- (a) A decision to engage an independent contractor to conduct a section 270 review of a procurement decision did not involve the use of council resources for the advantage of a particular candidate, even though one possible outcome of the review would have assisted or harmed the electoral chances of particular candidates.
- (b) A decision to include a mayor's review of the achievements of the council in an 'Annual Review' document sent to households did provide such an advantage.

Whether the scope of the 'advantage' under section 91A of the Elections Act extends to a perceived advantage is likely to be a matter for debate. Councils should, however, be aware of this view when making council resources available during an election period.

4.4 Normal council business or campaigning?

A breach of the prohibition on using council resources for the advantage of a particular candidate:

- (a) can occur inadvertently; and
- (b) does not require a specific council decision.

For example, if existing members of council are provided with a card which enables them to make copies of documents using council photocopiers (including copiers in a public library) and other candidates are not provided with this council resource, this would provide the council member with a (prohibited) advantage if they were permitted to use it for campaigning.

Other examples of council resources that, if used during the election period for campaign purposes, or purposes that would otherwise provide a genuine advantage to the candidate, which would contravene a council caretaker policy include:

- (a) Mobile phones
- (b) Council vehicles
- (c) Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (eg in a public library)
- (d) Council-provided business cards
- (e) Requests to council employees to perform tasks
- (f) The ability to issue invitations to council events
- (g) Council travel arrangements (eg access to council-negotiated rates for flights, accommodation or hire cars)
- (h) Access to areas that members of the public cannot access, including areas within the property of third parties (eg a 'Mayor's Parlour' at a suburban football oval).
- (i) Councils printed materials (e.g. brochures or other documents)

It is reasonable for councils to continue to provide resources where these are necessary for a council member to perform their duties as a council member, *provided* these resources are not used to advantage a candidate or group of candidates. For example:

- (a) Access to council facilities, for the purpose of a council meeting. This may include refreshments, if usually provided as an adjunct to council meetings
- (b) Access to a secure area of the council website, where council agendas, minutes and other council documents can be obtained.

Where council members are standing for re-election, the council should consider whether the continued provision of council resources during the election period will provide an advantage to existing council members (or other particular candidates) in their election campaigns.

Reasonable minds are likely to differ over whether the use of particular council resources will advantage particular candidates. A council's Caretaker Policy should consider all of the resources made available to council members and should set out which of these will not be available during an election period.

Specific scenario advice is provided in section 4.6 of this Guideline.

4.5 Use of council resources for personal benefit

The use of council resources for personal benefit is distinct from the prohibition against the use of council resources for the advantage of a particular candidate or group of candidates.

The use of council resources for personal benefit is regulated by legislation other than section 91A of the Elections Act. However, as the use of council resources by a council member for the purposes of an election campaign will be a use of those resources for personal benefit, the same activity may be regulated by both sets of rules.

Council members standing for re-election to council must take care that they only use council resources for normal council business and not to assist them in campaigning.

The general duties on council members under section 62 of the Local Government Act include offences for improper use of information⁵ or position⁶ to gain personal advantage for the council member or another person.

Section 78 of the Local Government Act provides for the use of council resources by council members. Section 78(3) of the Local Government Act states:

A member of a council must not use a facility or service provided by the council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the council and the member has agreed to reimburse the council for any additional costs or expenses associated with this use).

The Code of Conduct for Council Members prohibits the use of council resources for private purposes without authorisation.

The use of council resources for personal benefit in breach of these requirements could be corruption in public administration for the purpose of the *Independent Commission Against Corruption Act 2012* (SA) or maladministration or misconduct for the purpose of the *Ombudsman Act 1972* (SA) and be the subject of a complaint to the office of Public Integrity (**OPI**) or Ombudsman respectively.

Conduct of a public officer that results in a substantial mismanagement of public resources may also be the subject of a complaint to the Ombudsman.

Disciplinary consequences or prosecutions may ultimately result from the unauthorised use of council resources for private purposes.

⁵ Section 62(3) *Local Government Act 1999*

⁶ Section 62(4) *Local Government Act 1999*

4.6 Specific council resource scenarios

The business of a council does not cease during an election period. Council resources will continue to be used during the election period. There is a distinction between the use of council resources in the ordinary course of council operations and the use of council resources by a candidate or group of candidates for campaigning purposes. Where resources are used for campaign purposes, this will be the use of council resources for personal benefit.

During an election period, council members and council staff must take care that council resources are not used for the purpose of election campaigning. Some specific scenarios are discussed below where this issue may arise.

4.6.1 Council publications during an 'election period'

The publication by a council of information for the advantage of a particular candidate or group of candidates is prohibited by section 91A of the Elections Act. Publishing includes publication by any medium, including but not limited to leaflets, newspapers, posters, email, websites, radio or television.

Councils have a statutory responsibility to publish certain information regarding general elections. Under section 12(b) of the Elections Act, each council is responsible for the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area and to advise its local community about the outcome of the elections and polls conducted in its area.

All election materials published by a council should fall within the types of material described in section 12(b) of the Elections Act and not contain any material which would advantage a particular candidate or candidates.

'Electoral material' is defined in the Elections Act as *'an advertisement, notice, statement or representation calculated to affect the result of an election or poll'*. Given that the purpose of electoral material is to persuade voters towards a particular candidate or group of candidates, it will not be appropriate for a council to publish electoral material.

Councils may publish other material during an election period. If council is considering publishing or distributing material during the election period, the council should consider whether or not the material would confer an advantage on a particular candidate or group of candidates for election. If an advantage would be conferred, then the material should not be published or distributed.

Where a council publication made in the ordinary course of council operations would be published during an election period, care should be taken as to the contents of these publications, to ensure that the council and council members are not criticised for publishing information which may assist or hinder the electoral prospects of particular candidates.

Council members are able to publish electoral material on their own behalf (provided that they comply with sections 27 and 28 of the Elections Act). Council members should not assert or imply that the electoral material originates from or is endorsed by the council. A council member also should not use council resources (not available to the general public) to create or distribute his or her electoral material, including through the use of council stationery, computers, printers, photocopiers or staff or the application of council logos.

4.6.2 Attendance at Events and Functions

Events and functions can take many forms including conferences, workshops, forums, launches, promotional activities, and social occasions (such as dinners, receptions and ceremonies).

Council members can continue to attend events and functions in their capacity as a council member during an election period provided that their attendance is consistent with the ordinary course of a council member's duties and is not used for campaigning.

Council members should consider whether or not their attendance at an event or function is likely to be viewed as campaigning. In part, this may depend on the conduct of the council member while in attendance at the event or function. Care should particularly be taken by council members if they are asked to give a speech at an event or function during an election period.

4.6.3 Access to council information

Section 61 of the Local Government Act provides council members with a right to access council documents in connection with the performance or discharge of the functions or duties of the member. This right of access continues during an election period.

Council members should take care that access to council documents is in connection with the performance or discharge of their functions or duties of the member. Access to council documents for the purpose of campaigning or to gain an advantage in an election is an improper use of information gained by virtue of the council member's position as a member of council.

4.6.4 Media Services

Council's media services should be used to promote council activities or initiatives or community activities or initiatives which are endorsed or otherwise supported by council.

Media services should, during the election period, be used in the ordinary course of council operations. Care should be taken that media services will not be used to advantage a particular council member in his or her re-election campaign by profiling that member or activities which are closely associated with that member.

Council members should 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. To do so, would contravene section 62(4) of the Local Government Act which prohibits a council member improperly using his or her position as a council member to gain, directly or indirectly, an advantage for himself or herself or for another person. Council members can be prosecuted for this offence.

Access to media monitoring is likely to confer a campaigning advantage on recipients of monitoring reports. Media monitoring can be useful to council members in the performance of their official duties but is not usually essential. Councils should carefully consider suspending the access of council members to media monitoring during an election period.

4.6.5 Public consultation during an election period

Public consultation (sometimes called 'community engagement') must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period. Consideration should be given prior to the consultation being scheduled as to whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates, then it may be prudent to delay the consultation until after the election period.

4.6.6 Expenses incurred by council members

Payment or reimbursement of costs relating to council members' out-of-pocket expenses incurred during an election period will only apply to necessary costs that have been incurred in the performance of normal council duties. This is consistent with general requirements applying to the reimbursement of council members under section 77 of the Local Government Act.

No reimbursements should be provided for campaign expenses or for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

4.6.7 Council branding and stationery

Councils should not endorse particular candidates for election. Council logos, letterheads, or other council branding or council resources or facilities should not be used for a candidate's election campaign.

4.6.8 Support staff to council members

Council staff who provide support to council members should not be asked to undertake any tasks connected directly or indirectly with an election campaign for a council member, except where similar support is provided to all candidates.

In some councils, Mayor's will have access to support staff for assistance with email and diary management and coordination of activities related to the performance of their role. During an election period it is important to ensure clear separation of 'business as usual' (e.g. acknowledging or responding to emails received, coordinating calendar appointments) and campaigning activity (e.g. preparation and distribution of campaign flyers) and that council staff do not provide any assistance with the latter.

4.6.9 Equipment and facilities

Council resources such as council computers, stationery and business cards can continue to be used by council members during an election period for **normal council business**. For example, use of a council provided device to receive and read an electronic copy of the council agenda and use of the device during the council meeting. Council resources should not be used for campaign purposes, for example, use of the council provided email address and the council device to email a newsletter to community groups seeking their support in the election, as this will contravene the Local Government Act and the Code of Conduct for Council Members.

5 Council staff activities during an election period

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer.

Council staff should not authorise, use or allocate a council resource for any purpose which may influence voting in the election, except where it is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer. This includes making council resources available to council members for campaign purposes.

Council staff must not assist a council member with the member's election campaign during hours of work. Whilst it is not illegal for council staff to assist a council member with the member's election campaign in their own time, such campaign assistance creates reputational risks for the staff member, the candidate, the council and for the integrity of the election process.

Where the use of council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

6 Equity of assistance to candidates

6.1 Candidate Assistance and Advice

Councils should not favour a candidate or group of candidates for election, over other candidates.

Any assistance or advice provided to candidates as part of the conduct of an election will be provided equally to all candidates.

For example, if a council intends to provide information sessions for potential candidates, as far as practicable, the same information should be provided to all candidates.

Existing council members or other candidates should not be provided with additional information that would confer an electoral advantage (eg a heads up about a State MP's street meeting or information about an agenda item coming up on the agenda of a meeting of an influential community group).

The types of assistance that are available will be documented and communicated transparently to all candidates in advance.

6.2 Election Process Enquiries

All election process enquiries from candidates, whether current council members or not, are to be directed to the Electoral Commissioner as the returning officer or, where the matter is outside of the responsibilities of the returning officer, to the Chief Executive Officer or his or her nominee.



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