

CARETAKER ELECTION PERIOD POLICY

Responsible Division	Corporate and Strategy
Responsible Business Unit/s	Governance and Strategy
Responsible Officer	Manager Governance and Strategy
Affected Business Unit/s	All
Document Ref	3228088



PURPOSE:

To ensure compliance with the caretaker election period provisions in the Code of Conduct for Council Members, Committee Members and Candidates for Local Government Elections.

POLICY STATEMENT:

The primary purpose of the Policy is to avoid the Council making major decisions prior to the election that would bind an incoming Council, prevent use of public resources in ways that are seen as advantageous to or promoting the current elected members who are seeking re-election and ensures that local government officers act impartially in relation to all candidates. Implementation of a Caretaker Election Period Policy would provide for better decision-making and greater transparency and accountability in Council as prescribed by section 1.3 of the *Local Government Act 1995*.

The policy applies to the Caretaker Period to cover:

- decisions made by the Council;
- materials published by the local government
- attendance and participation in functions and events;
- use of the local government's resources; and
- access to local government information.

This Policy applies to Councillors, electoral candidates and employees of the City of Bayswater.

Scheduling Consideration of Major Policy Decisions

No Ordinary Council Meeting shall occur during a caretaker period. Instead the Chief Executive Officer is to ensure that such decisions are either:

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

Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council in accordance with the provisions of this policy.

Decisions Made Prior to a Caretaker Period

This Policy only applies to actual decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst announcements of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins.

Role of the Chief Executive Officer in Implementing Caretaker Practices

The role of the Chief Executive Officer in implementing the caretaker practices outlined in this policy is as follows:

- a) The Chief Executive Officer will ensure as far as possible, that all Councillors and staff are aware of the Caretaker Policy and practices 30 days prior to the start of the Caretaker Period.
- b) The Chief Executive Officer will ensure, as far as possible, that any major policy or significant decisions required by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where appropriate for determination by the incoming Council.
- c) The Chief Executive Officer will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period.

Extraordinary Circumstances

The Chief Executive Officer may, where extraordinary circumstances prevail, permit a matter defined as a 'major policy decision' to be submitted to the Council. The Chief Executive Officer is to have regard to a number of circumstances, including but not limited to:

- a) Whether the decision is 'significant';
- b) The urgency of the issue (that is - can it wait until after the election);
- c) The possibility of legal and/or financial repercussions if it is deferred;
- d) Whether the decision is likely to be controversial; and
- e) The best interests of the City of Bayswater.

Appointment or Removal of the Chief Executive Officer

Whilst this policy establishes that a Chief Executive Officer may not be appointed or dismissed during a Caretaker Period, in the case of an emergency, the Council may act to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election, after which date a permanent decision can be made.

Prohibition on Publishing Electoral Material

The City shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the City any advertisement, handbill, pamphlet or notice that contains 'electoral material' during the Caretaker Period.

Without limiting the generality of the definition of 'electoral material', material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

- a) The election, other than administrative information; or
- b) A candidate in the election; or
- c) An issue submitted to, or otherwise before, the voters in connection with the election.

Candidate and/or Councillor Publications

Candidates and/or Councillors are permitted to publish campaign material on their own behalf but cannot claim for that material to be originating from or authorised by the City.

Councillor Titles during Election Period

Councillors shall not use their roles or titles to endorse other candidates.

Election Announcements

This policy does not prevent publications by the City that merely announce the holding of the election or relate only to the election process itself.

City of Bayswater Publications

Any reference to Councillors in the City's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the City's publication's that are potentially affected by this policy will be reviewed by the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the Caretaker Period does not contain material that may be construed as 'electoral material'.

City of Bayswater Website

During the Caretaker Period the City's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about Councillors will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council.

Public Consultation During the Caretaker Period

It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing), unless the consultation is a mandatory statutory process or prior approval is given by the Chief Executive Officer.

Attendance Public Events Hosted by External Bodies

Councillors may continue to attend events and functions hosted by external bodies during the Caretaker Period.

Attendance at City of Bayswater Organised Civic Events/Functions

Civic events/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.

All known candidates are to be invited to civic events/functions organised by the City during the Caretaker Period, however, only sitting Councillors will be formally acknowledged at such events/functions.

Addresses by Councillors

Councillors who are also candidates should not, where possible, be permitted to make speeches or addresses at events/functions organised or sponsored by the City during the Caretaker Period. Councillors may make short welcome speeches at events and functions organised or sponsored by the City during the Caretaker Period subject to prior approval of the Chief Executive Officer.

Community and Advisory Groups

Councillors appointed to community groups, advisory groups and other external organisations as representatives of the City shall not use their attendance at meetings of such groups to either recruit assistance with electoral campaigning or to promote their personal or other candidates' electoral campaigns.

Use of City of Bayswater Resources

The City's Code of Conduct for Council Members, Committee Members and Candidates for Local Government Elections and the Code of Ethics for Employees' and the *Local Government (Model Code of Conduct) Regulations 2021* provide that the City's resources are only to be utilised for authorised activities (for example – prohibits the use of employees for personal tasks and prohibits the use of equipment, stationery, or hospitality for non-Council business). This includes the use of resources for electoral purposes. It should be noted that the prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

The City's staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Councillors and/or candidates in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of City resources might be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

Councillor Access to Information

During a Caretaker Period, Councillors are able to access Council information relevant to the performance of their functions as a Councillor.

However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this policy. Any Council information so accessed must not be used for election purposes.

Councillor Access to Electoral Information and Assistance

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls) and information relevant to their election campaigns from the City administration. Information, briefing material and advice prepared or secured by staff for a Councillor must be necessary to the carrying out of the Councillor's role and must not be related to election issues that might be perceived to be of an electoral nature (refer to Part 8 of this policy).

Any assistance and advice provided to candidates as part of the conduct of the local government election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to candidates in advance. Types of assistance may include advice on manipulation of electoral roll data and interpretation of legislative requirements, amongst other matters.

Councillor Request for Media Advice

Any requests for media advice or assistance from Councillors during the Caretaker Period will be referred to the Chief Executive Officer. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Councillors. If satisfied that advice sought by a Councillor during the Caretaker Period does not relate to the election or publicity involving any specific Councillor(s), the Chief Executive Officer may authorise the provision of a response to such a request.

Publicity Campaigns

During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a City activity it must be approved by the Chief Executive Officer. In any event, the City's publicity during the Caretaker Period will be restricted to communicating normal City activities and initiatives.

Media Attention

Councillors will not use their position to access City staff or resources to gain media attention in support of their or any other candidate's election campaign.

City of Bayswater Employees

During the Caretaker Period no City employee may make any public statement that relates to an election issue unless, the statements have been approved by the Chief Executive Officer.

Election Process Enquiries

All election process enquiries from candidates, whether current Councillors or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Chief Executive Officer.

Relevant Delegations

The Chief Executive Officer has the delegated authority to determine those matters that may be considered by the Council during the designated Caretaker Period in accordance with the provisions of this Policy.

DEFINITIONS:

‘Caretaker Period’ means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations being 44 days prior to the Election Day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.

‘Election Day’ means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election.

‘Electoral Material’ means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- a) An advertisement in a newspaper announcing the holding of a meeting in accordance with section 4.87(3) of the *Local Government Act 1995*.
- b) Any materials exempted under Regulation 78 of the Local Government (Elections) Regulations 1997.
- c) 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 of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the City and its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions.

‘Major Policy Decision’ means any:

- a) Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer, other than a decision to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election.
- b) Decisions relating to the City entering into a sponsorship arrangement with a total City contribution value exceeding \$10,000 (excluding GST).
- c) Irrevocable decisions that commit the City to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by a Councillor.
- d) Irrevocable decisions that will have a significant impact on the City of Bayswater or the community.
- e) Reports requested or initiated by a Councillor, candidate or member of the public that, in the Chief Executive Officer’s opinion, may be perceived within the general community as an electoral issue that reflects upon the Council’s decision-making process, and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

‘Public Consultation’ means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

RELATED LEGISLATION:

Local Government Act 1995 Part 4

Local Government (Elections) Regulations 1996

Local Government (Model Code of Conduct) Regulations 2021

RELATED DOCUMENTATION:

Relevant Delegations	(insert number from Delegated Authority Register)	
Risk Evaluation	New policy to guide on effective probity during local government electoral periods.	
Council Adoption	Date	31 May 2016
Reviewed / Modified	Date	15 August 2018
Reviewed / Modified	Date	24 August 2021
Reviewed / Modified	Date	