

Hobsons Bay Election Period Policy

2020 Version 3.0



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1 Policy Objective

The Election Period Policy builds on the minimum statutory standards to enhance the transparency and accountability of Council, Councillors and Council staff during the election period prior to the conduct of Council elections.

The purpose of this Election Period Policy is to ensure that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established caretaker conventions. Caretaker provisions are intended to ensure that councils and Councillors will not use public resources in election campaigning or make major policy decisions that may bind the incoming Council.

2 Background

Section 69 of the *Local Government Act 2020* (the Act) requires Council to include an Election Period Policy in its Governance Rules. The policy sets out the procedures to be applied by Council during the election period for a general election.

Under section 69 of the Act, an Election Period Policy must prohibit any Council decision during the election period for a general election that:

- (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Office or
- (b) 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
- (c) the Council considers could be reasonably deferred until the next Council is in place or
- (d) the Council considers should not be made during an election period

An Election Period Policy must also *'prohibit any Council decision during the election period for a general election or by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence voting at the election'* (section 69 (3) of the Act).

Bearing in mind the provisions of section 69 (3), Council will continue, through the use of previously appointed Panels, to undertake its approved program of capital works

and road maintenance/rehabilitation during the election period, where it believes that works are expected by and for the benefit of the Hobsons Bay community and not likely to influence voting at the election.

Section 123 of the Act (Misuse of Position) prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role, to gain an advantage, or disadvantage another.

These statutory requirements are minimum governance standards only. This policy, to be read in conjunction with the Councillor Code of Conduct, further defines the expectations on Council, Councillors and Council staff during the period prior to the conduct of Council elections. The Election Period Policy also expands on the list of matters Council will treat as major policy decisions and provides a process for dealing with them.

3 Application of Policy

This policy applies to all Council staff, Councillors and candidates during an election period, also known as the caretaker period.

The election period starts at the time that nominations for the election of Council close, known as nomination day. The election period for the 2020 elections will apply from 22 September 2020 until 6pm on Election Day (24 October 2020), inclusive.

4 Policy and Principles

During an election period, or longer if resolved by Council, this policy covers:

- (a) decisions that are made by Council, a delegated committee or a person acting under delegation by Council
- (b) any material that is published by Council or on Council's behalf
- (c) public consultation activities
- (d) scheduling, attendance and participation in functions and events
- (e) the use of Council resources
- (f) access to Council information
- (g) media services

Any such decisions or actions, if allowed at all, must only be made or taken subject to the guidelines set out in this policy.

5 Procedural Guidelines

This policy must be complied with during an election period, or longer if resolved by Council, if any of the following apply:

A major policy decision is being considered	If so, refer to Section 6
A significant decision that will bind the incoming Council is being considered	If so, refer to Section 6
Written material is about to be published which has reference in it to: (a) a candidate (including sitting Councillors) (b) the election (c) an issue before the voters in connection with the election	If so, refer to Section 7
A Council publication is being created	If so, refer to Section 7
A public consultation process is being considered	If so, refer to Section 8
A sitting Councillor is planning to attend a function or event	If so, refer to Section 9
Council staff supply administrative or resource support to Councillors	If so, refer to Section 11
A Councillor requests access to Council information	If so, refer to Section 12
A sitting Councillor requests media advice or services.	If so, refer to Section 13

6 Decisions during the election period

6.1 Who does this part of the policy apply to?

This section of the Election Period Policy applies to decisions made by Council, a delegated committee of Council, or a person acting under delegation given by Council.

6.2 Scheduling considerations of major policy decisions

As a general principle, the Chief Executive Officer should, as far as is practicable, avoid scheduling decisions for the election period and instead, ensure that major policy decisions are either:

- (a) considered by Council prior to the election period
- (b) scheduled for determination by the incoming Council

The scheduling of a major decision as detailed above, does not preclude the implementation of a previous decision made by Council through a Council resolution, prior to the commencement of the election period.

6.3 Major decisions during the election period

If a major decision cannot be scheduled prior to or after the election period, refer to the list below to determine whether it is affected by this policy. If it is unclear whether a decision falls within the list below, speak with the Manager Corporate Integrity (Legal Counsel), Coordinator Governance and Information Management, Governance Advisor, Director Corporate Services or Chief Executive Officer.

Under section 177 of the Act, an exemption from the Minister for Local Government may be sought for a major decision that is prohibited under section 69 of the Act, if Council considers that there are extraordinary circumstances which require such a decision. The matter must first be approved by the Chief Executive Officer and a Council resolution made to seek ministerial exemption.

Proposed Decision	Is it allowed?	Source
Employment or remuneration of a Chief Executive Officer under section 44, other than a decision to appoint an Acting Chief Executive Officer	No	This is prohibited by section 69 of the Act
Commits the Council to expenditure which exceeds 1% of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year (estimated at \$1.118 million)	No	This is prohibited by section 69 of the Act
Allocating community grants or other forms of direct funding for community organisations	No	This is an internal Council requirement which goes beyond the statutory requirements
Major planning scheme amendments	Generally no and only with approval from Chief Executive Officer	This is an internal Council requirement which goes beyond the statutory requirements

Proposed Decision	Is it allowed?	Source
Changes to strategic objectives or strategies in the Council Plan	No	This is an internal Council requirement which goes beyond the statutory requirements
An irrevocable decision that significantly affects the municipality	Generally no and only with approval from Chief Executive Officer	This is an internal Council requirement which goes beyond the statutory requirements
Any other significant decisions not specified above which will bind the incoming Council	Only with approval from Chief Executive Officer	This is an internal Council requirement which goes beyond the statutory requirements

6.4 Considerations for the Chief Executive Officer in giving approval

In the case of a major decision referred to the Chief Executive Officer which is not expressly prohibited under section 69 of the Act, in deciding whether to give approval, the Chief Executive Officer will need to have regard to a number of factors including:

- (a) whether the decision is indeed significant
- (b) the urgency of the issue (that is, can it wait until after the election)
- (c) the possibility of financial repercussions if it is deferred
- (d) whether the decision would require the spending of unbudgeted monies
- (e) any relevant statutory obligations and timeframes
- (f) whether the decision is in respect of the completion of an activity already commenced and endorsed by the incumbent Council
- (g) whether the decision is likely to be controversial or affect voting in the election
- (h) whether the disadvantage of avoiding or deferring the decision exceeds the benefit of making the decision
- (i) the best interests of Council and the community

6.5 Announcement of decisions made prior to the election period

To avoid doubt, the policy applies only to the actual making of decisions, not the announcement of decisions which have been made prior to the election period. However, as far as practicable such announcements should be made before the election period begins.

7 Council publications during the election period

7.1 Prohibition on publishing materials during the election period

It is prohibited under section 304 of the Act for a Councillor or member of Council staff to:

- (a) print, publish or distribute or
- (b) 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.

Any publications to be issued during the election period are to be approved by the relevant Director and then sent to the Governance unit for vetting for electoral matter. Once vetted, the publication will then be submitted to the Chief Executive Officer for approval.

Councillors can publish campaign material on their own behalf but must assume responsibility for compliance with the relevant sections of the Act and cannot purport for that material to be originating from, or authorised by Hobsons Bay City Council (e.g. by use of Council logos).

The word 'publication' should be read broadly to include printed material, electronic information and web-based productions.

The Chief Executive Officer will ensure that information is provided to Councillors, Council staff and contractors prior to the election period to preclude unauthorised publication of materials during an election period.

7.2 Considerations of Chief Executive Officer in granting approval

Except as described more specifically elsewhere in this policy, in considering whether to grant approval for the publication of material during the election period, the Chief Executive Officer:

- (a) must not permit any materials to be published which include reference to the following:
 - a candidate in the election
 - a current Councillor
 - the strengths or weaknesses of a candidate
 - response to claims made by a candidate
 - advocacy for, or criticism of, the policies of Council or of a candidate
 - publicity for the achievements of the incumbent Council
 - an issue before the voters in connection with the election
- (b) may approve publication of material which only contains:
 - information about the election process itself
 - Council information that does not include any reference to a current Councillor and is otherwise not precluded by this policy

7.3 Hobsons Bay City Council websites

During the election period Council websites will not contain material precluded by this policy. Any references to the election will only relate to the election process. Information about Councillors will be restricted to names, portrait photographs, ward profile and contact details. Links to Councillors' private social media profiles will be removed during the election period.

7.4 Social media

The Chief Executive Officer will determine whether for the duration of the election period Council's social media outlets will continue or be suspended. In the event that social media use continues, the Chief Executive Officer will determine the processes and resourcing necessary to moderate social media in accordance with this policy.

7.5 Email usage

The Chief Executive Officer will ensure that information is provided to Councillors, Council staff and contractors prior to the election period to preclude unauthorised distribution of materials via the Council email system during an election period.

The Chief Executive Officer will advise that all email communication during the election period that relates to the election must only contain information about the election process or information required in accordance with, or under, any Act or regulation. Any publications to be distributed via email during the election period are to be authorised by the Chief Executive Officer as required by section 7.1 of this policy.

7.6 Annual Report

Due to the publication date of the 2019-20 Annual Report occurring during the election period, it is affected by the legislative restrictions on publications and therefore information about Councillors will be restricted to what is required by the *Local Government (Planning and Reporting) Regulations 2014* and membership of delegated committees and other bodies to which they have been appointed by Council.

Despite publication of the Annual Report during the election period, it is deemed appropriate that the Mayoral Message be included in the Annual Report for the preceding financial year.

7.7 Council publications

Any Council publication which is potentially affected by this policy will be reviewed by the Manager Corporate Integrity (Legal Counsel), the Director Corporate Services or the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the election period does not contain material that may be construed as electoral matter.

Any increase in the publication or distribution of a Council publication must be approved by the Chief Executive Officer.

7.8 Council notice boards and buildings

During the election period Council notice boards and buildings will only be used for display of material that contains:

- (a) information about the election process itself

- (b) information that would not reasonably be considered to be electoral matter

8 Public consultation during the election period

8.1 Prohibition

It is prohibited under this policy for public consultation (either new consultation or existing) to be undertaken during the election period on a Council issue unless prior approval is given by Council or the Chief Executive Officer.

For the purposes of this policy ‘public consultation’ means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally, to comment on an issue, proposed action or proposed policy. The requirements of this section do not apply to public consultation required under the *Planning and Environment Act 1987* or matters subject to section 223 of the *Local Government Act 1989*.

8.2 Approval for public consultations

Due to the prohibition in section 8.1, it is prudent for Council not to commission or approve any public consultation if such consultation is likely to run into the election period, unless prior approval is given by Council or the Chief Executive Officer. Where public consultation is approved to occur during the election period the results of that consultation will not be reported to Council until after the election period, except where approved by the Chief Executive Officer.

9 Attendance at functions and events during the election period

In this policy, reference to functions and events 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 Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities and social occasions such as dinners, receptions and balls.

9.1 Public events staged by external bodies

Councillors may continue to attend events and functions during the election period. As a rule, any such attendance will not be represented as acting in an official capacity on behalf of the Hobsons Bay City Council.

9.2 Council events and functions

Council organised events and functions held during the election period will only be those essential to the operation of Council.

This may be varied by a Council resolution or where prior approval has been given by the Chief Executive Officer.

Where Council organised events and functions are held during the election period, Councillors and candidates must not use the forum for campaigning and must not distribute electoral matter.

9.3 Speeches and keynote addresses

Councillors should not act in an official capacity, including giving public speeches or addresses at Council organised or sponsored events and functions, during the election period.

9.4 Recording attendance at external meetings and functions

The presence of Councillors at external meetings and functions may be recorded in attendance records, except where this record of attendance is in conjunction with information and or promotional material (i.e. text or images) that may be considered as electoral matter.

9.5 Publication of promotional material

In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during the election period, such preparation must be consistent with the controls under section 7 of this Policy.

9.6 Council and community committees

Meetings of Council's Advisory Groups and community working groups and committees will not be held during the election period.

10 Council resources

Council will ensure that due propriety is observed in the use of all Council resources during the election period, and Council staff are required to exercise appropriate discretion in that regard.

Council staff should avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes.

In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice must be sought from the Manager Corporate Integrity (Legal Counsel), the Director Corporate Services or Chief Executive Officer.

10.1 Council resources

Council resources, including but not limited to Council staff, support staff, office space, hospitality services, equipment, stationery and use by Councillors of Council-owned vehicles should be used exclusively for normal Council business during the election period, and must not be used in connection with a candidate's election campaign.

10.2 Correspondence

Councillors will sign only necessary correspondence, if any, during the election period. Correspondence addressed to Councillors that relates to operational matters will be referred to the relevant Director for a response. Correspondence in respect to significant, sensitive or controversial matters, or to policy matters, should be signed by the Chief Executive Officer. Replies will be prepared in all cases to protect Council staff from any perception of political bias.

10.3 Expenses incurred by Councillors

Payment or reimbursement of costs relating to Councillors' out-of-pocket expenses incurred during the election period should only apply to necessary costs that have been incurred in the performance of normal Council duties, not campaigning, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign. In the case of Councillor claims that cover a combination of Council and electoral business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.

10.4 Council branding and stationery

Council logos, letterheads, or other Hobsons Bay City Council branding must not be used for, or linked in any way, to a candidate's election campaign.

10.5 Photographs and images

Photographs and images taken by or provided by Council are not to be used by Councillors for the purpose of electioneering or in support of their election campaign. This applies equally to images on the Council website that may be able to be copied.

10.6 Support to the Mayor and Councillors

Council staff, including support staff for the Mayor and Councillors, must not be asked to undertake any tasks connected directly or indirectly with an election campaign.

10.7 Forums

No local community forums, ward meetings or any other forums of the type identified in the Community Engagement Framework will be held by Councillors during the election period.

11 Access to Council information

All candidates have equal rights to access public information relevant to their election campaigns from the Council administration. Neither Councillors nor candidates will be provided information or advice from Council staff that might be perceived to support and advise them during the election period.

11.1 Information and briefing material

Information and briefing material prepared or secured by staff for a Councillor during the election period must be necessary to the carrying out of the Councillor's role and must not be related to election issues or to issues that might be perceived to be of an electoral nature.

11.2 Information requests from Councillors and candidates

The Manager Corporate Integrity (Legal Counsel) will maintain an Information Request Register during the election period commencing on the opening of nominations on Thursday, 17 September 2020. This register is a public document recording all requests for information by Councillors or candidates, and the response given to those requests. The Information Request Register will be made available on the Council website. Council staff will be required to provide details of requests and responses to the Manager Corporate Integrity (Legal Counsel) for inclusion in the register.

Any enquiries by staff regarding information requests or briefing material perceived to be of an electoral nature or related to election issues will be referred by staff in the first instance to the Manager Corporate Integrity (Legal Counsel) for a determination.

12 Media and media services

Council's media services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate.

12.1 Media advice

Any requests for media advice or assistance from Councillors during the election period will be channeled through the Chief Executive Officer or the Chief Executive Officer's delegate. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

12.2 Media releases/spokespersons

Media releases will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer or Director Corporate Services will determine the appropriate person.

12.3 Publicity campaigns

During the election period, publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer or the Chief Executive Officer's delegate. Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

12.4 Councillors

Councillors will 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.

12.5 Council staff

During the election period Council staff cannot make any public statement that relates to an election issue, unless the statements have been approved by the Director Corporate Services or the Chief Executive Officer.

13 Equity in assistance to candidates

All candidates for the Council election will be treated equally.

13.1 Candidate assistance and advice

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The type of assistance available will be documented and communicated to all candidates in advance.

13.2 Election process enquiries

All election process related enquiries from any candidate, whether a sitting Councillor or not, will be directed to the Victorian Electoral Commission (VEC) appointed Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Manager Corporate Integrity (Legal Counsel) or the Director Corporate Services.

13.3 Misuse of position

Using Council resources for campaigning may be a criminal misuse of a Councillor's position under section 123 of the Act. Serious penalties are prescribed for any Councillor who inappropriately makes use of their position or information obtained in their role as a Councillor, to gain an advantage for themselves or for any other person.

14 Council staff member standing for election

In the event that a member of Council's staff stands for election as a Councillor for Hobsons Bay City Council, they must:

- (a) take leave to stand for election to the office of Councillor (with leave commencing, at the latest, from the time of nominating as a candidate)
- (b) if elected, resign as a Council staff member immediately upon being declared elected

15 Election signage

This part of the policy provides guidance in relation to the rules which apply to signage that promotes candidates in an election or relates to election issues.

The content of election signage must meet the requirements for election material under the Act.

15.1 Election signs on private land

Election signs are allowed to be displayed on private land with permission from the owner of the land, subject to the following restrictions which are set out in clause 52.05-10 of the Hobsons Bay Planning Scheme:

- (a) the advertisement area of the sign must not exceed five square metres
- (b) only one sign may be displayed on the land
- (c) the sign must not be animated or internally illuminated
- (d) the sign must not be displayed longer than 14 days after the election is held

15.2 Election signs on public land

Election signs are prohibited on land that is owned or managed by Council (including but not limited to recreation reserves, halls, facilities, nature strips, median strips, road reserves) will be dealt with as a breach of the Hobsons Bay Planning Scheme.

15.3 Election signs on any vehicles, trailers, bicycles, prams or similar

Portable or moveable election signs that are attached to a vehicle, trailer, bicycle, pram or similar may be displayed on a road provided that:

- (a) the sign does not unreasonably restrict the use of the road or endanger the safety of members of the public
- (b) the relevant parking restrictions and requirements are observed

Election signs cannot however under any circumstances be displayed on a vehicle, trailer, bicycle, pram or similar on a footpath.

15.4 Breach

A breach of any of the above conditions regarding election signage will result in a request that the sign be removed within 48 hours.

Failure to adhere to this request will result in Council removing the sign and holding it at Council. An infringement may be issued and the relevant costs to Council will be payable by the candidate to whom the signage belongs. All collateral signs retained by Council will be disposed of 48 hours after the election has taken place. Any costs related to this disposal will be borne by the candidate to whom the signage belongs.

16 Notification and distribution of policy

A copy of the Election Period Policy must:

- (a) be given to each Councillor as soon as possible after it is adopted
- (b) be available for inspection by the public at the Hobsons Bay Civic Centre
- (c) be published on Council's website.

Additionally, prior to the commencement of the election period, the Chief Executive Officer will ensure that all staff are informed of the requirements of this policy.

17 Document Control

Policy Name:	Hobsons Bay Election Period Policy 2020
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Responsible Directorate	Corporate Services
Responsible Officer:	Coordinator Governance and Information Management
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18 Version History

Version Number	Date	Authorised by
	24 April 2014	Adopted by Council (Caretaker Policy)
1.0	8 March 2016	Adopted by Council (A2333080)
1.1	27 April 2018	Transfer to new Policy document format
2.0	12 November 2019	Adopted by Council (A3196088)
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