

# COUNCIL ELECTION PERIOD POLICY



Legislation / local law requirements	City's Policy No. 4.2.14 – Local Government Elections. Sections 4.87, 5.93 and 5.103 of the <i>Local Government Act 1995</i> (Act). <u><a href="#">Local Government (Model Code of Conduct) Regulations 2021</a></u> <u><a href="#">Regulation 8 of the Local Government (Rules of Conduct) Regulations 1996</a></u> (Rules of Conduct Regulations). Regulation 78 of the <i>Local Government (Elections) Regulations 1997</i> (Election Regulations).
Relevant delegations	N/A
Related policy procedures and documents	City's Code of Conduct <u><a href="#">for Council Members, Committee Members and Candidates</a></u> (Code of Conduct) <u><a href="#">City's Voluntary Candidate Code of Conduct (Attachment 1)</a></u>

## PURPOSE

During an election period the normal business of local government continues and ordinary matters of administration still need to be addressed.

This [Council Election Period](#) Policy (**Policy**) provides guidance to ensure administration operates during the election period in a manner which protects the apolitical nature of the local government and avoids the use of City of Vincent (~~the~~**City**) resources in a manner that advantages or disadvantages a particular candidate.

In summary, the Policy ensures that during the election period the local government avoids:

- making major policy decisions;
- making significant appointments; and
- entering major contracts or undertakings.

These arrangements aim to prevent controversies about the role of the public sector local government during an election campaign.

## OBJECTIVES

The primary objective of this Policy is to ensure the normal business of the City continues while avoiding:

1. the Council of the City of Vincent making major decisions (that depart from its stated strategic direction) prior to an election, that would bind an incoming Council;
2. the use of public resources in ways that are seen as advantageous or disadvantageous to, or promoting, Elected Members who are seeking re-election or new candidates; [and](#)
3. Administration acting in a manner which could influence the result of an election.

This Policy applies during an 'Election Period' (see below for a definition) to cover:

- decisions that are made by the Council;

- materials published by the City;
- attendance and participation at functions and events;
- use of the City's resources; and
- access to information held by the City.

## SCOPE

This policy applies to Elected Members and employees of the City of Vincent.

Whilst electoral candidates who are not Elected Members cannot be compelled to comply with a policy of the Council, such candidates will be made aware of this Policy and encouraged to support its implementation. In addition, candidates will be informed of the Code of Conduct and that a breach of the requirements of the Code of Conduct could result in a complaint being brought against the candidate should they be elected to Council (section 5.104(6) of the Act and clause 11 of the Code of Conduct).

## POLICY

### 1. Scheduling consideration of Major Policy Decisions

So far as is reasonably practicable, the CEO should avoid scheduling Major Policy Decisions for consideration during an Election Period, and instead ensure that such decisions are either:

- considered by the Council prior to the Election Period; or
- scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the CEO may submit a Major Policy Decision to the Council (refer to clause 4.1).

### 2. Decisions made prior to an Election Period

This Policy only applies to decisions made during an Election Period, not the announcement of decisions made prior to the Election Period. Whilst announcements of earlier decisions may be made during an Election Period, as far as practicable any such announcements should be made before the Election Period begins or after it has concluded.

### 3. Implementation of Election Period practices

#### ~~3.1~~ *Role of the CEO in implementing Election Period Practices*

The role of the CEO in implementing the Election Period practices outlined in this Policy is as follows:

- The CEO will ensure as far as possible, that all Elected Members and staff are aware of the Election Period Policy and practices at least 30 days prior to the start of the Election Period.
- The CEO will ensure that all candidates in an election are aware of the ~~City's voluntary 'Candidate'~~ Code of Conduct upon acceptance of their nomination.
- The CEO will ensure, as far as possible, that any Major Policy Decisions or significant decisions required to be made by the Council are scheduled for Council resolution prior to the Election Period or deferred where possible for determination by the incoming Council.
- The CEO will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Election Period, are publicised prior to the Election Period.
- The CEO will provide guidelines for all relevant staff on the role and responsibilities of staff in the implementation of this Policy.

## **4 Extraordinary circumstances requiring exemption**

### **4.1 Extraordinary Circumstances**

Despite clause 1, the CEO may, where extraordinary circumstances exist, permit a matter defined as a Major Policy Decision to be submitted to the Council for determination during the Election Period.

### **4.2 Appointment or removal of the CEO**

Whilst clause 1 above establishes that a CEO may not be appointed or dismissed during an Election Period, the Council may, where the substantive officer is on leave, appoint an Acting CEO, or in the case of an emergency, suspend the current CEO (in accordance with the terms of their contract) and appoint a person to act in the position of CEO, pending the election, after which date a permanent decision can be made.

## **5 Election Period statement**

To assist the Council to comply with its commitment to appropriate decision making during the Election Period, an Election Period Statement will be included in each report submitted to the Council where the Council's decision would, or could, be a Major Policy Decision. The Election Period Statement will state:

*"The decision the Council may make in relation to this item could constitute a 'Major Policy Decision' within the context of the City of Vincent Election Period Policy, however, an exemption should be made because, (insert the circumstances for making the exemption)".*

## **6 City of Vincent Publications**

### **~~6.1 City of Vincent Website and Digital Media~~**

During the Election Period the City's website and digital media will not contain any material which is precluded by this Policy. Any references to the election will only relate to the election process.

## **7 Public consultation during the Election Period**

Public consultation can occur during an election period to ensure the normal business of local government continues and ordinary matters of administration are addressed.

Mandatory public consultation required by the Act or any other relevant [Act legislation](#) will continue to be undertaken to enable the City to fulfil its functions.

Public consultation will not be undertaken during the Election Period (either new consultation or existing) on an issue which, in the CEO's opinion, could be perceived as intending to affect the result of an election, unless authorised by the CEO.

## **8 Attendance and participation at events/functions**

### **8.1 Public events hosted by external bodies**

Elected Members may continue to attend events and functions hosted by external bodies during the Election Period.

### **8.2 City organised civic events/functions**

Events and/or functions organised by the City and held during the Election Period will be limited to only those that the CEO considers essential to the operation of the City, and should not in any way be associated with any issues that in the CEO's opinion, are considered relevant to, or likely to influence the outcome of, an election.

All known candidates are to be invited to civic events/functions organised by the City during the Election Period.

### **8.3 Addresses by Elected Members**

Excluding the Mayor and Deputy Mayor fulfilling their functions as prescribed by sections 2.8 and 2.9 of the Act, respectively, Elected Members that are also candidates should not, without the prior approval of the CEO, be permitted to make speeches or addresses at events/functions organised or sponsored by the City during the Election Period.

## **9 The use of City resources**

The ~~City's~~ Code of Conduct ~~(at clause 17)~~ and the ~~Conduct Regulations Local Government (Rules of Conduct) Regulations 2007~~ provide that the City's resources are only to be utilised for authorised activities (for example - no use of employees for personal tasks or no 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 Election 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 Elected Members in ways that could create a perception that they are being used for electoral purposes. Advice is to be sought from the CEO in any circumstances where the use of City resources might be construed as being related to a candidate's election campaign.

## **10 Access to Council information and assistance**

### **10.1 Electoral information and assistance**

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls), monthly enrolment details, and information relevant to their election campaigns from the City administration.

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

### **10.2 Media advice**

The role of the Mayor under section 2.8 of the Act in relation to speaking on behalf of the ~~local government~~ ~~City~~ continues during the Election Period.

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

### **10.3 Publicity campaigns**

The City's marketing campaigns during the Election Period will communicate normal City activities and initiatives.

During the Election Period, major or new marketing campaigns (that depart from ~~its~~ the stated strategic direction) other than for the purpose of conducting (and promoting) the election will be avoided wherever possible.

A marketing campaign deemed necessary for a City activity must be approved by the CEO in the normal manner.

### **10.4 Media attention**

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

## 10.5 Election process enquiries

All election process enquiries from candidates, whether current Elected Members or not, will be directed to the Returning Officer (as appointed by the WA Electoral Commission) or, where the matter is outside of the responsibilities of the Returning Officer, to the CEO.

## DEFINITIONS

**Election Period** means the period of time when the Election Period practices are in place prior to the election. The Election Period practices will apply from the close of nominations (37 days prior to the Election Day – Section 4.49(a) of the Act) until 6.00pm on Election Day.

**Election Day** means the day fixed under the Act for the holding of any poll needed for an election but excludes an extraordinary election to elect a new Mayor.

**Electoral Material** means any advertisement, handbill, pamphlet, notice, letter or article, including through social and digital media, 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 (section 4.87(3) of the Act);
- (b) any materials exempted under Regulation 78 of the Election Regulations; or
- (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.

**Extraordinary Circumstances** means a situation that requires a Major Policy Decision of the Council because:

- (a) in the CEO's opinion, the urgency of the issue is such that it cannot wait until after the election;
- (b) of the possibility of legal and/or financial repercussions if a decision is deferred; or
- (c) in the CEO's opinion, it is in the best interests of the Council and/or the City of Vincent for the decision to be made as soon as possible.

**Major Policy Decision** means any decision which:

- (a) departs from the Council's stated strategic direction;
- (b) is the appointment of an Executive Director or the CEO ~~significant appointments (including appointment of the CEO)~~; or
- (c) commits to a major contract (being a contract which is over the tender threshold) or Significant Expenditure.

**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 but does not include consultation required to be undertaken in order to comply with a written law.

**Significant Expenditure** means expenditure that exceeds \$20,000 of the City's annual budgeted revenue (inclusive of GST) in the relevant financial year.



CITY OF VINCENT

## **Voluntary Code of Conduct for candidates in City of Vincent elections**

### **Application**

Elected Members are bound by the Local Government (Rules of Conduct) Regulations 2007 and the City's Code of Conduct.

This Voluntary Code of Conduct for candidates is applicable only to those persons nominating for election to the Council of the City of Vincent (not to Elected Members).

Each candidate (not being an Elected Member) is encouraged to abide by the Voluntary Code of Conduct if they intend to become a candidate in the election.

### **Legislative Obligations**

Candidates in local government elections need to be aware of the legal framework in which the elections are conducted and the obligations that the *Local Government Act 1995* (the Act) and the Local Government (Elections) Regulations 1997 (the Regulations) place upon candidates.

Candidates should make themselves familiar with the following legislative provisions:

- Sections 2.7, 2.8 and 2.10 of the Act which outline the role of the Council, the role of the Mayor and the role of Elected Members;
- Division 5 of Part 2 of the Act which outlines the qualifications for holding office on the Council;
- Divisions 9, 10 and 11 of Part 4 of the Act dealing with the electoral process, the validity of elections and electoral offences; and
- Parts 5 and 5A of the Regulations relating to nominations and the disclosure of gifts.

### **Ethical and Behavioural Principles**

Candidates shall conduct their campaigns so as to maintain and strengthen the public's trust and confidence in the democratic election process, and promote integrity in the local government electoral system. Candidate's conduct should be fair and reasonable. This requires that a candidate will:

1. Act honestly in making representations about the candidate's own claims for election, and their intention to represent the district.
2. Act honestly in making representations about the claims of other candidates for election.



3. Not make public statements about another candidate's personal affairs.
4. Avoid making frivolous or vexatious complaints to the Chief Executive Officer, the Western Australian Electoral Commissioner or (once appointed by the Western Australian Electoral Commissioner) the Returning Officer, against any other candidate during a campaign.
5. Avoid conduct which is contrary to any law particularly but not limited to:
  - Criminal Code offences;
  - *Local Government Act 1995* offences; and
  - Council's Local Laws.
6. Conduct themselves in a manner to ensure they are not compromising a free and fair election process.
7. Avoid conflicts of interest arising from advocating election policies or proposals which would specifically deliver a private material personal interest to the candidate or an associate.
8. Abide by the election gift disclosure requirements of the *Local Government Act 1995*.
9. Avoid placing themselves under any financial or other obligations that might influence them in discharging their duties and responsibilities if elected as an Elected Member.
10. Avoid influencing or affecting another person's election choices by giving, or promising, or offering a gift or benefit of any kind to anyone else.

OFFICE USE ONLY	
RESPONSIBLE OFFICER	
INITIAL COUNCIL ADOPTION	Date: 20/08/2019, Ref# D19/123351
REVIEWED/AMENDED	Date: , Ref#:
NEXT REVIEW DATE	Date: 20/08/2024



