

Chapter 8 – Election Period Policy

The Local Government Act 2020 (“the Act”) requires Council to include an election period policy in its Governance Rules.

Definitions

In this policy:

“Act” means the Local Government Act 2020; and

“election period” has the same meaning as in the Act.

Council decisions during the election period

1. Section 69 of the Act stipulates that an election period policy must:
 - 1.1 prohibit any Council decision during the election period for a general election that:
 - 1.1.1 relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
 - 1.1.2 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
 - 1.1.3 the Council considers could be reasonably deferred until the next Council is in place; or
 - 1.1.4 the Council considers should not be made during an election period; and
 - 1.2 prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Council publications during the election period

2. Section 304 of the Act:
 - 2.1 prohibits a Councillor or member of Council staff from using Council resources in a way that is intended to, or is likely to affect the result of an election.
 - 2.2 makes it an offence for a Councillor or member of Council staff to use Council resources to intentionally or recklessly print, publish or distribute or 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.
3. *Electoral material* is any matter that is “intended or likely to affect voting in an election”. This includes (but is not limited to) material that deals with the election, candidates or issues of contention in the election, and material that publicises the strengths or weaknesses of a candidate; advocates the policies of the Council or of a candidate; responds to claims made by a candidate; or publicises the achievements of the elected Council.

4. During the election period, all Council publications must be certified in writing by the Chief Executive Officer or delegate to confirm that they do not contain *electoral material*. Publications which require certification include all documents that are produced for the purpose of communicating with people in the community, including: Council newsletters; advertisements and notices; media releases; leaflets and brochures; emails and mailouts to multiple addresses; electronic information; and web based productions including on Council's website and social media accounts. The controls do not cover advertisements that simply announce the holding of a meeting or about the election process itself.
5. Councillors may publish campaign material on their own behalf, but cannot purport for that material to be originating from, or authorised by, Council or Frankston City Council eg. by use of Council logos.
6. The prohibition does not apply to documents published before the election period, or documents that are published in accordance with a requirement of the Act (eg. the Annual Report, rate notices, food premises registrations, parking fines).
7. Any Council material that is required to be published during the election period will be reviewed by Council's Governance department, and then (if appropriate) sent to the Chief Executive Officer or delegate to be certified in writing prior to publication.
8. In considering whether to grant approval for the publication of material during the election period, in accordance with the provisions in the Act, the Chief Executive Officer or delegate:
 - 8.1 must not permit any materials to be published which include reference to: the election; a candidate in the election; a current Councillor; or an issue before the voters in connection with the election; and
 - 8.2 may approve publication of material which only contains information about: the election process itself; or Council services (as long as the material does not include any reference to a current Councillor, an issue before the voters in connection with the election, or any content that is otherwise precluded by this policy).

Council website and social media

9. During the election period Council's corporate website 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 titles, names and contact details. Other information will be removed for the duration of the election period.
10. The ability for members of the public to post comments on Council's social media sites will be removed for the duration of the election period.

Public consultation during the election period

11. Public consultation is an integral part of Council's policy development, process and operations. However, public consultation undertaken in the lead up to an election has the potential to become an election issue in itself, and can influence voting.
12. For the purposes of this policy, public consultation means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.
13. It is prohibited under this policy for public consultation (new or ongoing) to be commissioned or undertaken during the election period on an issue that is contentious unless prior approval has been given by the Council or the Chief Executive Officer.

14. In considering whether to grant approval for public consultation during the election period, the Council or Chief Executive Officer will have regard to a number of factors including: whether special circumstances make it necessary for the consultation to occur during the election period; the possibility of financial or other repercussions if the consultation is deferred; and whether the risks of influencing the election can be mitigated or avoided.
15. This clause does not apply to public consultation that is required to be undertaken in accordance with section 223 of the Local Government Act 1989, or under the Planning and Environment Act 1987. However, consideration will be given to whether such statutory processes can be delayed until after the election period.

Events and functions during the election period

16. The scheduling of Council events and functions during the period leading up to an election can create issues due to a perception that such events and functions have the potential to be used by sitting Councillors for electioneering purposes.
17. For the purposes of this policy, events and functions include any gathering of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community. An event or function may take the form of a conference, workshop, forum, Annual General Meeting, launch, promotional activity or a social occasion such as a dinner, reception, ball or similar.
18. Where possible, public Council events and functions will be scheduled outside the election period. Council organised events and functions held during the election period will be reduced to only those essential to the operation of the Council. This may be varied by a Council resolution or where the Chief Executive Officer has given prior approval.
19. In considering whether to grant approval for a Council event or function to be held during the election period, the Council or Chief Executive Officer will have regard to a number of factors including: whether special circumstances make it necessary for the event or function to occur during the election period; the possibility of financial or other repercussions if the event or function is deferred; and whether the risks of influencing the election can be mitigated or avoided.
20. Meetings of accords, local area community working groups and committees under the auspices of Council will not be held during the election period.

Public events and functions staged by external bodies

21. Councillors may continue to attend events and functions staged by external bodies during the election period. However, Council resources cannot be used to facilitate attendance or participation in such events. Any speeches prepared by Council officers for the Mayor or the Mayor's representative for events during the election period will include only basic material, and will not include any content that could be construed as electoral matter (see definitions).

Expenses incurred by Councillors

22. Section 40 of the Act provides that Councillors are entitled to be reimbursed for any reasonable out-of-pocket expenses incurred in performing their duties as a Councillor.
23. A claim for payment or reimbursement of a Councillor's out-of-pocket expenses incurred during the election period should only relate to necessary costs that have been incurred in the performance of normal Council duties. Reimbursement will not be paid for any expenses that are connected with campaigning, or that could be perceived as supporting or being connected

with a candidate's election campaign.

24. In the case where a Councillor's expenses claim covers a combination of Council and election-related business, the Chief Executive Officer or delegate may approve a partial reimbursement to cover Council activities.

Use of Council resources

25. Council is committed to ensuring that due propriety is observed in the use of all Council resources. During the election period, additional measures will be implemented to prevent the use of Council resources by candidates for electioneering purposes. For the purposes of this policy, Council resources include Council officers and support staff, hospitality services, vehicles, property, equipment and stationery.
26. Council resources will be used exclusively for normal Council business during the election period, and will not be used in connection with an election campaign. Some specific examples of Council's commitment to this principle are set out below:
 - 26.1 The use of resources including bulk paper, photocopying and printing, will be monitored.
 - 26.2 Photographs and images taken by or on behalf of Council will not be used for the purposes of electioneering.
 - 26.3 Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for election campaign purposes.
 - 26.4 Council email addresses will not be used for election campaign purposes.
 - 26.5 Where a Councillor has an existing Council funded service (mobile phone, smart phone, land line or internet connection) and it is impractical to discontinue use of the service during the election period, the Councillor will reimburse Council for any usage of the service during the election period that exceeds normal usage levels.
27. It is acknowledged that certain improper actions during the election period can have serious consequences; for example, the use of Council resources for private purposes such as electioneering can be a misuse of a Councillors' position, in breach of section 123 of the Act.

Mayor and Councillors' correspondence

28. General correspondence addressed to the Mayor and/or Councillors will be answered in accordance with Council's usual administrative procedures. However, the Mayor and Councillors will sign only the necessary minimum of correspondence during the election period. Correspondence in respect to significant, sensitive or controversial matters will be signed by the Chief Executive Officer. All correspondence will be prepared so as to protect Council staff from perceptions of political bias.
29. Items bearing Frankston City Council's logo, letterhead or other Frankston City Council branding will not be used for, or linked in any way to, a candidate's election campaign.

Media advice and releases

30. Any requests for media advice or assistance from Councillors during the Election Period will be channelled 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.

31. Media releases during the election period will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer will determine the appropriate person.
32. 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, the Chief Executive Officer or their delegate must approve it. Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.
33. 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.

Councillor briefings

34. Councillor briefings will not be held during the election period, except in relation to urgent matters.
35. 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.
36. Council's communication services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate.

Equity in assistance to Councillors and candidates

37. All candidates have equal rights to access public information relevant to their election campaigns. Neither Councillors nor candidates will be provided with information or advice from Council staff that might be perceived to support election campaigns.
38. Council staff should avoid assisting Councillors or candidates in any way that could create a perception that they are being used for electoral purposes. The Mayor and Councillors' support staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.