



# Election Period Policy

(Chapter 6 of the  
Whitehorse Governance Rules)

June 2024



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## Part A – Introduction

### 94. Definitions and key terms

Definition /Key Term	Meaning
<b>Act</b>	means the <i>Local Government Act 2020</i> .
<b>Candidate</b>	<p>means a person:</p> <ol style="list-style-type: none"> <li>1. who has nominated as a candidate for an election under section 256 of the Act</li> <li>2. who has: <ol style="list-style-type: none"> <li>a) publicly expressed an intention to run as a candidate in the election; and/or</li> <li>b) a person who has formally nominated as a candidate in the election to the Election manager.</li> </ol> </li> </ol> <p>A candidate is a 'known candidate' when a person has actual knowledge of the candidate's identify and that they meet the above definition.</p>
<b>Chief Executive Officer (CEO)</b>	<p>means the person appointed by a Council under section 44 of the Act to be its Chief Executive Officer or any person acting in that position: and or</p> <p>the Chief Executive Officer Delegate</p> <p>or any other person that Chief Executive Officer selects for the purpose of giving effect to this Policy.</p>
<b>Council</b>	means Whitehorse City Council
<b>Council decision</b>	<p>means:</p> <ol style="list-style-type: none"> <li>a) a resolution at a Council meeting;</li> <li>b) a resolution made at a meeting of a d</li> <li>c) elegated committee; or</li> <li>d) the exercise of a power of the performance of a duty or function of Council by a member of Council staff (including the Chief Executive Officer) or a community asset committee under delegation</li> </ol>
<b>Council event</b>	means a gathering of people or a ceremony of some significance, either run or supported by Council, which celebrates or recognises some specific aspect of community, and generally creates publicity
<b>Councillor</b>	means a person who holds the office of member of Council, including the Mayor and Deputy Mayor
<b>Councillor candidate</b>	means a current Councillor who has nominated or is considering nominating for the election in the 26 October 2024 election.
<b>Election manager</b>	means the Victorian Electoral Commission (VEC) or a person appointed in writing period by the VEC.
<b>Election Period</b>	means the period that starts at the time that nominations close (12pm on Tuesday 17s September 2024) and ends at close of voting on Election Day (6pm on Saturday 26 October 2024)
<b>Electoral material</b>	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

<b>Electoral matter</b>	means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election. Matter is considered to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on: a) the election; or b) a candidate in the election; or c) an issue submitted to, or otherwise before, the voters in connection with the election.
<b>Executive Leadership Team (ELT)</b>	means a person in the following positions: <ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• Director Corporate Services</li> <li>• Director Community Services</li> <li>• Director City Development</li> <li>• Director Infrastructure</li> <li>• Executive Manager Transformation</li> </ul>
<b>Information request register</b>	means a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.
<b>Member of Council Staff</b>	means a natural person appointed by the Chief Executive Officer under section 48 of the Act to enable: a) the functions of the Council under the Act or any other Act to be carried out; and b) the Chief Executive Officer to carry out their functions Note: The Chief Executive Officer is also a member of Council staff as per section 44(5) of the Act.
<b>Public consultation</b>	means a process that involves an invitation to individuals, groups, organisations, or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.
<b>Publication</b>	includes any means of publication including letters and information on the internet
<b>Returning Officer</b>	means the person appointed in writing by the VEC to conduct the election
<b>Ward</b>	means a subdivision of the municipal district

## 95. Purpose

The Election Period Policy has been developed to ensure Whitehorse City Council elections are conducted in a fair and equitable manner and are publicly perceived as such, while facilitating the continuation of ordinary Council business during the Election Period in a transparent manner.

This policy has been developed in accordance with the Act.

## 96. Objectives

This policy aims to:

- a) Outline Council decisions and actions that are prohibited during the Election Period;
- b) Provide guidance to Councillors, candidates, and members of Council staff regarding access to, and the appropriate use of, Council resources and information; and
- c) Specify the conditions of appropriate community engagement, Council communications and campaign publicity during the Election Period.

## 97. Scope

This policy applies to all Councillors, candidates for election and members of Council staff during the Election Period.

## Part B – Council Decisions

### 98. Prohibited decisions

Section 69 of the Act prohibits any Council decision during the Election Period 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 Officer;
- b) Commits the Council to expenditure exceeding one per cent (1%) of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- c) Could be reasonably deferred until the next Council is in place; or
- d) Should not be made during an election period.

### 99. Council meetings during the Election Period

99.1 Pursuant to section 100(2) of the Act, Council will hold a Special meeting in October 2024 to consider the Annual Report. This will be the only item considered at this meeting.

99.2 If exceptional circumstances arise, a Special Council meeting may be called if:

- a) The matter is urgent;
- b) The decision is significant and cannot be reasonably deferred without major negative repercussions;
- c) It is required for operational purposes;
- d) Pursuant to a statutory requirement; or
- e) A decision cannot wait until after the election.

99.3 An agenda for a Special Council Meeting would not include matters that would be contrary to this policy or that could be used by Councillor candidates or others to aid an election campaign. Agenda items that would not be permitted during the Election Period include:

- a) The adoption of a new policy, strategy or planning amendment;
- b) The adoption of a new rate or charge;
- c) The purchase or sale of land;
- d) The approval of community grants;
- e) The spending of unbudgeted monies;
- f) The conduct of any public consultation on significant issues;
- g) Changes to the annual budget or capital works program; or
- h) Any other matter that the Chief Executive Officer deems could affect voting in an election, significantly affect the local community, or would unreasonably bind the incoming Council.

99.4 A special meeting can only consider the business that the meeting is called for. The following items of business normally conducted at an Ordinary Council Meeting will not be permitted for a Special Council Meeting held during an Election Period:

- a) Public Question Time;
- b) Petitions;
- c) Public Submissions;
- d) Rescission or alteration motions;
- e) Notices of motion; or
- f) Reports by Delegates and reports on conferences/seminar attendance.

99.5 Should a special meeting be convened, and an item is proposed as urgent business, it must be assessed in accordance with the Act and this policy. If approved for inclusion in the meeting agenda, items of urgent business must also include an election period statement that they could not reasonably result in a prohibited or inappropriate decision.

99.6 Community and Ward meetings will not be held during the Election Period.

## 100. Election Period Statement – Special Council Meeting Reports

100.1 During the Election Period, the Chief Executive Officer will ensure that an Election Period Statement is included in every report submitted to Council for a decision: The Statement will specify one of the following:

<b>Not a prohibited or significant decision</b>	The recommendation will include “it is not a “Prohibited Decision”, as defined in section 69(2) and (3) of the <i>Local Government Act 2020</i> , or a “Significant Decision” within the meaning of Council’s Election Period Policy.”
<b>Not a prohibited but a significant decision</b>	The recommendation will include “is not a “Prohibited Decision” within the context of <i>Local Government Act 2020</i> . The recommended decision is a “Significant Decision” within the meaning of Council’s Election Period Policy, but an exception should be made for the following reasons [insert reasons for making an exemption]”
<b>Seek an exemption from the Minister</b>	The recommendation will include “That Council seeks an exemption from the Minister because the matter requires a Prohibited Decision” within the meaning of section 69(2) and (3) of the <i>Local Government Act 2020</i> ”

100.2 Council will not make a decision on any matter that does not include an Election Period Statement during the Election Period.

## Part C – Council Resources

### 101. Access to resources for normal Councillor duties

Councillors are elected to represent their local community and this obligation continues during the Election Period unless granted a leave of absence. Councillors may use any Council resources provided to them to facilitate the performance of their normal duties.

### 102. Council resources not to be used for campaign purposes

Resources provided for the purpose of conducting normal Council business must not be used for campaign purposes by any candidate. These include:

- a) Any equipment including, but not limited to, mobile phones, laptops, printers, mayoral vehicle, stationery, landlines, and internet connections;
- b) Council branding, logos, letterheads, and other associated material;
- c) Photos or images taken by or provided by Council, or on Council websites;
- d) Any email account provided by Council;
- e) Offices and meeting facilities; and
- f) Support staff and hospitality services.

### 103. Use of Councillor position and title

103.1 Councillors may 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.

103.2 Councillor candidates may use the title ‘Councillor’ in their electoral material as they continue to hold office during the Election Period. However, it cannot be claimed or implied that the material originated from, or was authorised by, Council.

### 104. Members of Council staff

104.1 Council staff will continue to support Councillors in performance of their normal duties during the election period. However, Councillors and other candidates must not ask any member of Council staff to undertake any task connected directly or indirectly with an election campaign.

104.2 In the course of employment, Council staff must not:

- a) Undertake an activity that may affect voting in the election, or
- b) Authorise, use, or allocate a Council resource for any purpose that may influence voting in the election.

104.3 Any member of Council staff who believes that a requested use of Council resources may be perceived as being connected with an election campaign should refer the matter to the Chief Executive Officer.

## 105. Reimbursement of expenses

Reimbursement of Councillor expenses will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with an election campaign.

## 106. Councillor requests

106.1 All Councillor requests must be made through the Customer Resource Management (CRM) system. Operational requests received via this process covering issues such as but not limited to roads, footpaths, trees, waste management and general amenity will be administered as community requests. All information requests received during the election period will be handled in accordance with Part H of this policy.

106.2 Council databases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the *Privacy and Data Protection Act 2014* and are not available to members of the public, candidates or to Councillors.

## 107. Councillor Correspondence

107.1 A key part of the role of a Councillor is to engage with members of the community, including responding to any correspondence received. While this must continue during the election period, it is important that Officers are not perceived as providing Councillors any undue advantage over other candidates.

107.2 During the election period, any responses prepared by the administration in response to correspondence addressed to a Councillor will therefore be signed by the Chief Executive Officer or relevant Executive Leadership Team member or Manager as appropriate. Such responses will acknowledge the Officer is responding due to limitations imposed upon Councillors during the election period.

## Part D – Public Consultation

### 108. Public consultation

108.1 Public consultation includes but is not limited to:

- a) Community forums;
- b) Focus groups;
- c) Postal or electronic surveys;
- d) Web polls; and
- e) Social media forums.

108.2 Council will limit public consultation during the Election Period and will not conduct consultation on any matter which, in the opinion of the Chief Executive Officer, is likely to affect voting at the election. If public consultation on such a matter has commenced prior to the beginning of the Election Period, it shall be paused until after the election.

108.3 Consultation required by the *Planning and Environment Act 1987*, or regarding matters subject to section 223 of the *Local Government Act 1989*, will continue as necessary during the Election Period.

108.4 Where public consultation is undertaken, the Chief Executive Officer must specify the circumstances requiring the consultation and ensure that the session is managed and chaired by a Director or the Chief Executive Officer, and not by the Mayor or a Councillor.

108.5 The Mayor and Councillors may attend any public consultation session held within the Election Period but must not use their attendance as an opportunity for electioneering.

## Part E – Council publications and media

### 109. Prohibition on publishing during the Election Period

Under section 304(2) of the Act, a Councillor or member of Council staff must not:

- a) Use Council resources to print, publish or distribute any electoral material, 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 Council, unless the electoral material only contains information about the election process or is otherwise required in accordance any Act or regulation.



#### 110. Electoral material

'Electoral material' means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

#### 111. Electoral matter

'Electoral matter' includes material that:

- a) Publicises the strengths or weaknesses of a candidate;
- b) Advocates the policies of Council or of a candidate;
- c) Responds to claims made by a candidate;
- d) Publicises the achievements of the elected Council;
- e) Publicises matters that have already been the subject of public debate;
- f) Is about matters that are known to be contentious in the local community and are likely to be the subject of election debate;
- g) Deals with election candidates' statements; or
- h) Refers to Councillors or candidates by name or implicit reference.

#### 112. Considerations of Chief Executive Officer in granting publication approval

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 that include reference to the following:
  - i. The election;
  - ii. A candidate in the election;
  - iii. A current Councillor; or
  - iv. An issue before the voters in connection with the election.
- b) **May approve** the publication of material which only contains information about:
  - i. The election process itself; or
  - ii. Council information that does not include any reference to a current Councillor otherwise precluded by this policy.

#### 113. Council meeting papers and the Annual Report

Council is required by the Act to publish an Annual Report. When published during an Election Period, the Annual Report must not include electoral material, and information regarding Councillors will be limited to names, titles, contact details and membership of committees or other bodies to which they have been appointed by Council. Content will be restricted to general Council business and not the specific achievements of elected representatives.

#### 114. Whitehorse News and eNews

The Whitehorse News and eNews will not contain Councillor content during the Election Period.

#### 115. Council websites

- 115.1 For the duration of the Election Period a statement will be placed on Council websites advising that Council will not regularly update or add new information during the Election Period other than necessary operational information.
- 115.2 Material published on Council websites prior to the Election Period will be reviewed and consideration given to the removal of any material that would be electoral matter if it were to be published during the Election Period.
- 115.3 Councillor contact information will remain on the website during the Election Period, but their profiles will be removed.

#### 116. Council social media

- 116.1 Posts are to be kept to a minimum and contain necessary operational information only.
- 116.2 Council staff responsible for administering social media sites will monitor these during the Election Period and use moderation features where available to ensure no electoral matter is posted. The following provides guidance on the use of social media:

- a) Social media posts to be kept to minimum, normal day-to-day activities only;
  - b) No launches or announcements of any new projects, policy initiatives, or programs;
  - c) No matter is permitted that may be construed as electoral matter – sites should be reviewed to ensure there is none;
  - d) No hosting or responding to political content at all is permitted;
  - e) Any election related comments/posts by the public should be deleted as soon as possible.
- 116.3 Information regarding the election that can be posted and responded to is restricted to logistical information, e.g. when is the deadline for postal votes.
- 116.4 For the duration of the election period a statement will be placed on social media sites advising that Council will not be regularly updating or adding new information during the election period other than necessary operational information.
- 116.5 Council's social media officers will remove/delete any comments made by the community relating to election matters.

#### **117. Personal social media accounts**

Personal Councillor and candidate social media accounts should be used in accordance with Election Period Policy, Councillor Code of Conduct and Social Media Policy. Any candidate using material which is linked to Council on personal social media accounts should include a statement that they act as an individual and not a member of Council.

#### **118. Media services**

- 118.1 The services of Council's Strategic Communications department must not be used in any way that might promote or be perceived to promote a Councillor candidate during the Election Period.
- 118.2 Media releases should be kept to a minimum during the Election Period. Any such publicity will be subject to approval by the Chief Executive Officer or their delegate.
- 118.3 The Chief Executive Officer or delegate will be the media spokesperson on any media enquiry.
- 118.4 During the Election Period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained from the Chief Executive Officer.
- 118.5 Any requests for media advice or assistance during the Election Period must be approved by the Chief Executive Officer. In any event, no media advice or assistance will be provided in relation to election campaign matters.

### **Part F – Events**

#### **119. Council events**

- 119.1 Council events, either sponsored or under the auspices of or run by Council, will only take place if unavoidable. Such events proposed during the election period may only proceed with the express permission of the Chief Executive Officer. This includes events such as launches, festivals and any other public forum outside of the normal Council meeting cycle.
- 119.2 Where an event has received CEO approval it cannot be officiated by the Mayor or a Councillor.
- 119.3 Publicity of Council events (if any during the period) will be restricted to the communication of factual material only and will not feature, mention, or quote or contain any photo of any Councillor.
- 119.4 Citizenship ceremonies should be planned to be held outside the Election Period where possible. If a citizenship ceremony must be held during the Election Period, the Mayor may participate as conferees are not eligible to vote in the election. Any speech by the Mayor at a citizenship ceremony must be prepared by Council staff and approved by the Chief Executive Officer.

- 119.5 During the Election Period, the Mayoral robes and chain of office may only be worn at official civic occasions such as Council meetings and citizenship ceremonies. No campaigning by Councillors or any other candidate is permitted at any Council event.

## **120. External events**

- 120.1 Councillors may from time to time be invited to attend non-Council events from external groups. Councillors may attend non-Council events during the election period and must make a clear separation between attendance in their role as a Councillor or attendance in their role as a candidate.
- 120.2 Should Councillors make a speech at such events they should disclose that they are doing so in their private capacity and not as a member of the Council.

## **Part G – Assistance to candidates**

### **121. Access to information and advice**

- 121.1 All election candidates have equal rights to access public information relevant to their election campaigns. Any assistance and advice provided to candidates as part of the conduct of the election will be provided equally to all candidates.
- 121.2 Neither Councillors nor other candidates will receive information or advice from Council officers that may improperly advantage or be perceived to support election campaigns. This includes internal publications such as the Forward Planner, as it relates to meetings post-election date.
- 121.3 A Councillor may continue to access Council information only as it is necessary for them to perform their role as Councillor. Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with an election campaign.

### **122. Information Request Register**

- 122.1 To ensure transparency in the provision of information and advice during the Election Period, the Governance and Integrity department will maintain an Information Request Register. The Register will record all requests relating to electoral matters and non-routine requests for information by a Councillor or other candidate received during the Election Period, and the response provided to those requests. The Register will be publicly available on Council's website.
- 122.2 All requests for information are to be in written format and directed to the Chief Executive Officer.
- 122.3 Election-related enquiries from any candidate will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or delegate.

### **123. Candidate Information**

- 123.1 Candidates will receive a Councillor Candidate Information Kit (which will include a copy of this policy) to assist them in running and nominating for Council.
- 123.2 Council will run or facilitate candidate information sessions prior to the election.
- 125.3 Candidates must complete a nomination form which will be available from the Returning Officer, accompanied by the nomination fee.
- 123.4 Candidates must also be aware of their obligations under the Act.

## Part H – Policy Administration

### 124. Breach of policy

- 124.1 Breaches of this policy by Council staff are to be referred to the Chief Executive Officer, with all other breaches referred to the Victorian Local Government Inspectorate.
- 124.2 Serious penalties apply under the Act, with fines of up to 600 penalty units and imprisonment of up to five years. Councillors and Council staff may also be subject to discipline under their respective Codes of Conduct.

### 125. Responsibilities

Parties	Roles and Responsibilities
Chief Executive Officer	<ul style="list-style-type: none"><li>• Ensure that all Councillors and members of Council staff are informed of this policy at least 30 days prior to the commencement of the Election Period;</li><li>• Ensure that matters of Council business requiring prohibited decisions are scheduled for resolution prior to the commencement of the Election Period, or defer these matters for determination by the incoming Council;</li><li>• Not include in the agenda for any Ordinary or Special Council meeting any matter that could be considered a prohibited, inappropriate, or significant decision during the Election Period;</li><li>• Certify any item included in an agenda submitted to Council for a decision with the Election Period Statement;</li><li>• Approve requests for information received from candidates;</li><li>• Manage any breaches of this policy in accordance with Council's <i>Councillor Code of Conduct</i>, <i>Employee Code of Conduct</i> or the Act, as appropriate; and</li><li>• Refer any breaches of this policy not relating to members of Council staff to the Victorian Local Government Inspectorate.</li></ul>
Manager Governance and Integrity	<ul style="list-style-type: none"><li>• Assess items received for publication for electoral matter and decline or refer to the Chief Executive Officer for consideration as appropriate; and</li><li>• Refer any breaches of this policy (except those regarding election signage and the distribution of electoral materials) to the Chief Executive Officer.</li></ul>
Coordinator Governance	<ul style="list-style-type: none"><li>• Provide advice to Councillors, Council staff and candidates in the interpretation and application of this policy</li></ul>
Senior Governance Officer	<ul style="list-style-type: none"><li>• Manage responses to requests for information as approved by the Chief Executive Officer; and</li><li>• Maintain and publish the Information Request Register.</li></ul>

### 126. Related Policies & Legislation

*Local Government Act 2020*

*Whitehorse City Council Community Local Law 2014*

*Whitehorse Planning Scheme*

*Whitehorse City Council Expenses Policy*

*Whitehorse City Council Councillor Code of Conduct*

*Whitehorse City Council Employee Code of Conduct*

*Whitehorse City Council Governance Rules*

*Whitehorse City Council Social Media Policy*

### 127. Review

Responsible department: Governance, Governance and Integrity, Corporate Services

Date Adopted: 25 June 2024

Date of Next Review: June 2028

This policy has been reviewed for compliance with the *Charter of Human Rights and Responsibilities Act 2006* and the *Gender Equality Act 2020*.