

# CARETAKER PERIOD

## POLICY

POL - GVN 06

### Objective:

The City of Mandurah (the City) is committed to ensuring that Council Elections are undertaken in a manner that is transparent, open and supports a high standard of integrity.

The Caretaker Period Policy (the Policy) establishes protocols to guide the conduct of Elected Members and City employees during the Caretaker Period in the lead up to Election Day.

The primary objective of this Policy is to:

- Support appropriate decision making to avoid the City making Major Policy Decisions prior to an election that would bind an incoming Council;
- Prevent the use of public resources for election purposes in ways that could be seen to be advantageous to, or promoting candidates seeking election; and
- Ensure that the City's employees act impartially in relation to candidates.

### Statement:

#### Caretaker Period

The Caretaker Period for Local Government Elections takes effect at the period of time from close of nominations being 37 days prior to the Election Day in accordance with section 4.49(a) of the *Local Government Act 1995* until 6pm on Election Day.

#### Applicability

This Policy applies to Elected Members and City employees during a Caretaker Period with respect to:

- a. Decisions that are made by the Council;
- b. Media and promotional materials;
- c. Use of the City's resources, access to the City's information and support;
- d. Attendance and participation at events and functions; and
- e. Employee engagement with candidates.

Prior to the election period commencing, the Chief Executive Officer (CEO) will advise Elected Members and City employees of the application of this Policy.

Whilst the City cannot bind electoral candidates who are not sitting Elected Members, all candidates will be made aware of this Policy and encouraged to cooperate with the protocols.

## 1. Decision making by Council

### 1.1 Scheduling consideration of Major Policy Decisions

So far as reasonably practicable, the CEO should avoid scheduling Major Policy Decisions for Council's consideration during a Caretaker Period.

A Major Policy Decision includes any new major policy decisions or significant changes to policy, approvals of unbudgeted expenditure or significant decisions which would bind the incoming Council. (Refer to definitions for Major Policy Decision).

The CEO should reasonably ensure that decisions are either:

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

### **1.2 Prevailing Circumstances**

In some circumstances the CEO may permit a matter defined as a Major Policy Decision to be submitted to the Council during the Caretaker Period. The CEO is to have regard to a number of circumstances, including but not limited to:

- a. the urgency of the issue is such that it cannot wait until after the election;
- b. whether the process has substantially commenced and / or approvals are in place;
- c. the possibility of legal and/or financial repercussions if a decision is deferred;
- d. the possibility of legal repercussions relating to planning applications; or
- e. the best interests of the City and community for the decision to be made as soon as possible.

Where during the Caretaker Period the CEO determines that Prevailing Circumstances apply, the report to Council will include a statement outlining the circumstances for making the exemption.

### **1.3 Decisions made prior to 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.

## **2. Media and Promotional Materials**

### **2.1 Elected Members**

#### **2.1.1 Elected Members Media and Publicity**

All Elected Member requests for media advice or assistance during a Caretaker Period, including Elected Members who have nominated for re-election, will be referred to the CEO or delegate for review.

Elected Members should avoid using their position as an elected representative to gain media attention in support of their or any candidate's election campaign.

Elected Members should avoid using the City's social media accounts to profile themselves, their campaign or provide any responses to statements or questions on the City's social media pages.

#### **2.1.2 Elected Members Publications**

Elected Members 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 e.g. City of Mandurah Armorial Crest, Branding and/or Logo.

Elected Members should avoid using the City's business cards and printed materials for any election campaign purposes, either in support of their own candidacy or the candidacy of another person.

## 2.2 City of Mandurah

### 2.2.1 City of Mandurah Media and Publicity

During the Caretaker Period, media releases will be limited to operational issues previously resolved by Council, rather than Major Policy Decisions. Media content which relates to Major Policy Decisions will not be published during a Caretaker Period unless Prevailing Circumstances apply.

The City's Corporate Communications team will ensure:

- Information published by the City will not make comment on individual election campaigns.
- Proactive publicity will not be used by the City involving Elected Members who have nominated as candidates.
- Media advice will not be provided to Elected Members who have nominated as candidates regarding public comment on the elections.
- The Mayor, as the City's spokesperson, will continue to be quoted in media statements during the Caretaker Period when providing information.
- Any requests for media advice or assistance from Elected Members during the Caretaker Period will be referred to the CEO or delegate.

### 2.2.2 City of Mandurah Website and Social Media

Website and Social Media platforms will only be used to promote the upcoming Council Elections and encourage people to vote, including links to candidate information on the WA Electoral Commission candidate website.

Social media will not promote or link to any Elected Member or candidate's social media accounts nor retweet or share any Elected Member or candidate's social media posts.

### 2.2.3 City of Mandurah Publications

Reference to Elected Members or candidates in the City's publications printed, published or distributed during the Caretaker Period must not include promotional text.

Publications that are potentially affected by this Policy will be reviewed by the CEO or delegate 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.

## 3. Use of City's resources, access to information and support

### 3.1 Use of local government resources

An Elected Member who uses City resources either directly or indirectly for the purpose of persuading electors to vote in a particular way is in breach of regulation 8 of the *Local Government (Rules of Conduct) Regulations 2007*.

This prohibition on misuse of local government resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.

### **3.2 Access to information**

Elected Members should avoid using or accessing City information or resources for the purpose of gaining electoral advantage or disadvantage relevant to their candidacy or any other person's candidacy.

Requests for information will be reviewed by the CEO or delegate and where the subject of the information is considered as relevant to a campaign issue, the CEO or delegate will have discretion to determine if the information or advice is/is not provided. This does not include information which is available under s.5.92 of the *Local Government Act 1995* or information which is available publicly or would be available publicly.

During the Caretaker Period any requests for information, other than that not publicly available, by Elected Members and candidates will be recorded, along with the response given to those requests.

### **3.3 Elected Member Support**

The CEO is committed to ensuring Elected Members are provided with appropriate support to continue to fulfil their official duties and responsibilities during the Caretaker Period.

The Office of the Mayor and Councillors will continue to provide support for core Council activities, but not election matters.

During the Caretaker period Elected Members may still have contact with City officers in accordance with the City's Code of Conduct for Elected Members.

## **4. Employee engagement with Elected Members**

The City's Code of Conduct for Employees sets out the appropriate standards of behaviour for engagement with Elected Members.

During the Caretaker Period City employees need to consider how their actions may have an actual or perceived potential to influence voting in the election.

City employees are not permitted to:

- Authorise, use or allocate the City's resource for any purpose which may influence voting in the election;
- Assist candidates in a way that is or could create a perception that they are being used for electoral purposes;
- Accept employment (voluntary or paid) related to local elections in support of any candidate; and
- Interact with candidates on their personal social media platforms, which may be perceived as influencing voting in the election.

## **5. Events and Functions**

### **5.1 City of Mandurah organised events and functions**

During the Caretaker Period Elected Members are supported to attend events and functions arranged by the City.

Excluding the Mayor, Elected Members who have nominated as a candidate will not have any formal role at events or functions.

Elected Members may not distribute any campaign material or promote their campaign at City organised events and functions.

### **5.2 External events and functions**

During a Caretaker Period Elected Members may continue to fulfil their role through attendance at events and functions hosted by external bodies.

For external events or functions requiring City or Council representation excluding the Mayor, Elected Members who have nominated as a candidate will not have any formal role.

At such events Elected Members may not distribute any campaign material or promote their campaign.

## **6. Complaints**

Refer to the City's Code of Conduct for Elected Members or Employees.

## **7. Definitions**

### **Caretaker Period**

The period of time prior to an Election Day, specifically being the period from the close of nominations (37 days prior to the Election Day in accordance with s.4.49(a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

### **Election Day**

The day fixed under the *Local Government Act 1995* for the holding of any election.

### **Electoral Material**

Any advertisement, handbill, pamphlet, notice, letter, email, social media post or article that is intended or calculated to affect an Election Day result, 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*; or
- (b) Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- (c) Any materials produced by the City of Mandurah 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.

### **Prevailing Circumstances**

A situation that requires a Major Policy Decision of the Council in the event:

- (a) In the Chief Executive Officer'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) Of the possibility of legal repercussions relating to planning applications if the decision is deferred; or
- (d) Whether the process has substantially commenced and or approvals are in place; or

In the Chief Executive Officer's opinion, it is in the best interests of the City of Mandurah or community for the decision to be made as soon as possible.

### **Major Policy Decision**

Refers to any:

- (a) Decisions relating to employment, remuneration or termination of the Chief Executive Officer or any other designated Senior Officer, other than a decision to appoint an Acting Chief Executive Officer;
- (b) Decisions relating to the City of Mandurah entering into a sponsorship, unless the Council resolved “in principle” support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds are allocated in the Annual Budget;
- (c) Decisions that commit the City of Mandurah to significant actions which might be brought about through a Notice of Motion by an Elected Member;
- (d) Decisions that adopt a new policy or service, or significantly amends an existing policy or service, unless the decision is necessary to comply with legislation;
- (e) Decisions that commit the City to unbudgeted expenditure or actions that are significant to the operations or strategic objectives of the City and may have significant impact on the City of Mandurah and community;
- (f) Reports requested or initiated by an Elected Member, candidate, or member of the public, may be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

Major Local Government Decision does **NOT** include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the City in accordance with s.6.8(1)(c) of the *Local Government Act 1995*.

---

**Responsible Directorate:** Governance Services

**Reviewer:** Manager Governance Services

**Creation date:** Minute G.17/8/19, 27 August 2019

**Amendments:**

**Related Documentation and/or references:** *Local Government Act 1995*  
*Local Government (Election) Regulations 1996*  
*Local Government (Rules of Conduct) Regulations 2007*  
Code of Conduct – Elected Members 2016  
Code of Conduct – Employees 2016  
*Local Government Property and Public Places Local Law 2016*