

SUPPLEMENTARY AGENDA



Ordinary Meeting of Council

To be held at the

Civic Centre

511 Burwood Highway

Wantirna South

On

Monday 25 November 2019 at 7:00 pm

13 Supplementary Items

13.1 Draft Election Period Policy 2020

SUMMARY: Co-ordinator Governance, Andrew Dowling

Officers have undertaken a review of the Election Period Policy adopted in March 2016 and prepared a revised policy for consideration by Council in preparation for the 2020 Council general election.

RECOMMENDATION

That Council resolve to adopt the Election Period Policy and Procedure as set out in Attachment 2 to this report.

1. INTRODUCTION

Section 93B of the Local Government Act 1989 requires Councils to have an election period policy including

- (a) procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- (b) limits on public consultation and the scheduling of Council events;
- (c) procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

Adoption of the revised election period policy will bring Council into line with the requirements of the Local Government Act 1989.

The draft Policy is based on the previous version adopted by Council in March 2016 and there are no major changes in policy direction.

2. DISCUSSION

In the lead up to general elections, the actions of Councillors, candidates and staff come under closer scrutiny from the public, media and regulators such as the Local Government Inspectorate.

In this context, changes proposed in the draft policy provide additional guidance and clarity for staff, candidates and Councillors to assist them to demonstrate the highest standards of integrity and probity in the lead up to the election, and particularly when navigating the requirements of the election period, commencing on 22 September 2020.

The changes:

- More clearly state Council's overarching policy position.
- Provide greater clarity and certainty regarding the types of decisions considered "inappropriate decisions" during the election period.

- Include additional guidance for officers regarding the range of factors to be considered before making decisions under delegation, scheduling reports for consideration by Council, or programming Council events during the election period.
- Clarify processes for public question to ensure questions do not contain electoral matter.
- Include additional guidance for Councillors regarding the appropriate use of Council resources.
- Provide additional guidance to staff, Councillors and candidates regarding access to information and assistance to candidates.

Overall, the changes are considered to enhance Council's policy position and assist Council to demonstrate strong ethical and governance standards in the conduct of the election.

The changes are shown in tracked changes in **Attachment 1**. A clean copy of the policy updated to Council's current visual identity is included at **Attachment 2**.

3. CONSULTATION

The draft Election Period Policy 2020 has been prepared with reference to the 2016 policy, contemporary policies adopted elsewhere in the sector and commentary from the Local Government Inspectorate.

4. ENVIRONMENTAL/AMENITY ISSUES

Nil

5. FINANCIAL & ECONOMIC IMPLICATIONS

Nil

6. SOCIAL IMPLICATIONS

This policy supports Council's commitment to being open, fair, equitable and transparent in the conduct of Council elections and will further enhance good governance practice in the lead up to the October 2020 municipal elections.

7. RELEVANCE TO KNOX COMMUNITY AND COUNCIL PLAN 2017-2021

Goal 8 - We have confidence in decision making

Strategy 8.1 - Build, strengthen and promote good governance practices across government and community organisations

8. CONFLICT OF INTEREST

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author - Co-ordinator Governance, Andrew Dowling - In providing this advice as the Author, I have no disclosable interests in this report.

Officer Responsible – Director Corporate Services, Michael Fromberg - In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

9. CONCLUSION

Adopting a revised election period policy for the 2020 elections will bring Council into compliance with the Local Government Act 1989 and provide a strong governance framework for the election.

10. CONFIDENTIALITY

Not Applicable

Report Prepared By: Co-ordinator Governance, Andrew Dowling

Report Authorised By: Director Corporate Services, Michael Fromberg

Attachments

1. Election Period Policy and Procedure - Tracked Changes [**13.1.1** - 20 pages]
2. Election Period Policy and Procedure - No Tracking [**13.1.2** - 20 pages]

KNOX POLICY



ELECTION PERIOD POLICY & PROCEDURE

Policy Number:	2005/02	Directorate:	Corporate Development
Approval by:	Council	Responsible Officer:	Coordinator Governance
Approval Date:	<u>25 November 2019</u> 22 March 2016	Version Number:	<u>5</u>
Review Date:	Not later than 12 months before the next general election period		

1. PURPOSE

~~This Election Period Policy & Procedure (Policy) The Election Period Policy~~ has been developed to ensure that the Knox City Council municipal elections are conducted in a manner that is fair, equitable, and publicly perceived as such.

This policy further ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established 'caretaker' conventions.

2. CONTEXT

~~The Local Government Amendment (Improved Governance) Act 2015 was passed by the Parliament in October 2015. The purpose of the amendment was to enhance the governance standards of Councils and to amend the arrangements for local government elections to strengthen their integrity.~~

~~The newly proclaimed section 93B of the Local Government Act 1989 (the Act)~~

~~Having an Election Period Policy is a requirement of section 93B of the Local Government Act 1989 ('the Act') which requires Council to prepare, adopt and maintain a n-election-period-policy which explains:~~

- the procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- the limitations placed on public consultation and the scheduling of Council events during the election period before a general election; and
- the procedures intended to ensure that information held by Council is made equally available and accessible to candidates during the election period before a general election.

3. SCOPE

This policy will apply to Councillors, Council staff and candidates for the Knox City Council general elections to be held on Saturday, 24 October 2020.

NOTE: following deleted content has been moved to clause 6.12

This policy will apply to:

3.1 — Councillors

~~Councillors must comply with this policy, regardless of whether they intend to nominate or have already nominated as candidates for election.~~

3.2 — Council Staff

~~All Council staff, and in particular those staff who are candidates for an election, must comply with this policy.~~

~~Council staff who are candidates must also:~~

- ~~➤ take leave from their duties for the duration of the election period in accordance with section 29(3) of the Act (if not enough paid leave is accrued, unpaid leave will be available).~~
- ~~➤ return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information which is not available to the public for the duration of the election period.~~
- ~~➤ if elected, immediately resign from their employed position at Council.~~

3.3 — Committee members

~~Council committee members who are candidates for election are expected to comply with this policy and in addition:~~

- ~~➤ return any council equipment, documents or information which is not available to the public for the duration of the election period.~~
- ~~➤ if elected, immediately resign from the committee.~~

4. REFERENCES

4.1 Community & Council Plan 2017-2021

City Plan (incorporating the Council Plan)

- Goal 8, We have confidence in decision making Democratic and Engaged Communities

4.2 Relevant Legislation

- Local Government Act 1989

4.3 Charter of Human Rights

- This policy has been assessed against and is considered to be compatible with and complies with the charter of Human Rights.

4.4 Related Council Policies

- Councillor Code of Conduct
- Staff Code of Conduct
- ~~Incidental Community Minor~~ Grants Program Policy
- Social Media Policy

4.5 Related Council Procedures

- Nil

5. DEFINITIONS

<u>Candidate</u>	<p>A person who has:</p> <ul style="list-style-type: none"> • <u>Within 12 months of the next election period, publicly announced an intention to run as a candidate in the election; and or</u> • <u>a person who has formally nominated as a candidate in the election with the returning officer.</u> <p><u>A candidate is a “known candidate” when a person has actual knowledge of the candidate’s identity and that they meet the above definition.</u></p>
Council	Knox City Council, whether constituted before or after the commencement of this Policy.
Election Period	<p>The period commencing on the last day on which nominations for that election can be received and ending at 6.00pm on Election Day.</p> <p>For the 2016–2020 elections, the election period will apply from 24²² September 2016²⁰²⁰ until 6:00pm on Saturday, 22–24 October 2016–2020 inclusive.</p>
Election Day	<p>In the case of an election, the day of an election determined under section 31 or 38 of the Act.</p> <p><u>For the 2020 elections, election day is Saturday, 24 October 2020.</u></p>
Electoral Matter	<p>As defined in section 3(1A) and 3(1B) of the Act and detailed below:</p> <p>Any 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 returning officer for the purposes of conducting an election.</p> <p>Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—</p> <ol style="list-style-type: none"> (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.
Inappropriate Decision	<p>As defined in Section 93B(5) of the Act and detailed below:</p> <ol style="list-style-type: none"> a) decisions that would affect voting in an election; b) decisions that could reasonably be made after the election

Major Policy Decision

As defined in Section 93A(6) of the Act and detailed below:

- a) relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;
- b) to terminate the appointment of a Chief Executive Officer under section 94;
- c) to enter into a contract the total value of which exceeds whichever is the greater of –
 - i. \$100,000 or such higher amount as may be fixed by Order in Council under section 186(1); or
 - ii. 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;
- ~~d) to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.~~

Returning officer

As defined in Section 3(1) of the Act and detailed below:

(a) the Electoral Commissioner; or

(b) a person appointed in writing by the Electoral Commissioner;

Staff, Council staff, or staff member

means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Knox City Council

6. COUNCIL POLICYDuring the election period:

- Council will not make major policy decisions contrary to the Act.
- Council will not make inappropriate decisions contrary to the Act.
- Council will limit public consultation, public meetings and Council events in order to facilitate Council's day-to-day business while avoiding any express or implied links to the election.
- Council will not print, publish or distribute electoral matter contrary to the Act.

Council resources, events and activities must not be used for election campaign purposes, or in a way that might improperly influence the result of an election.

Information held by Council will be equally and transparently available and accessible to all candidates.

Assistance and advice provided to candidates will be provided equally and transparently to all candidates.

The Chief Executive Officer shall take reasonable steps to inform affected persons of this policy.

6.1 Commencement of Election Period

No later than 30 days prior to the commencement of the election period, the Chief Executive Officer will ensure:

- that all Councillors, Staff and Committee members are reminded informed of the forthcoming election period and the application of this policy.
- This policy is prominently displayed on Council's website for the benefit of the community and candidates (actual or potential).

6.2 Decision Making During the Election Period

Council, a special committee of Council or a person acting under delegated authority of Council must not make major policy decisions or inappropriate decisions during the election period for a general election.

6.2.1 Major Policy Decisions

NOTE: following deleted content has been moved to clause 6.3

~~Unless extraordinary circumstances exist, the Chief Executive Officer will ensure that matters defined as major policy decisions will be scheduled for Council's consideration prior to the commencement of the election period or deferred for consideration by the incoming Council.~~

Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. Therefore, where the Council considers extraordinary circumstances do exist where a delay in decision making would result in significant detriment to the community, Council may apply in writing to the Minister for an exemption in accordance with the Act. A major policy decision made in contravention of the Act is invalid.

6.2.2 Inappropriate Decisions

NOTE: following deleted content has been moved to clause 6.3

~~The Chief Executive Officer will ensure that inappropriate decisions will be scheduled for Council's consideration prior to the commencement of the election period or deferred for consideration by the incoming Council.~~

~~The following inappropriate decisions (whether made by Council, a Special Committee or staff member exercising delegation) will be avoided completely during the election period:~~

Decisions on the following matters during the election period (whether made by Council, a Special Committee or staff member exercising delegation), are considered inappropriate decisions for the purposes of the Act and this policy:

- Allocation of community grants or other direct funding to community organisations including Incidental Community Grants those under the Minor Grants Program Policy.
- Major planning scheme amendments
- Sale or discontinuance of roads etc
- Changes to the strategic objectives and strategies in the Council Plan
- Acquisition or disposition of land
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Appointing representatives to Council committees
- Naming or re-naming of roads, reserves or features
- Noting the results of community consultation.

Assistance in determining whether a decision is likely to be inappropriate should be sought from the Manager Governance & ~~Innovation~~ in the first instance.

6.2.3 Officer Decisions under Delegated Authority

Before making a decision under delegated authority during the election period, officers should consider all the relevant facts and circumstances, including: ~~the following:~~

- Whether the decision is or may be perceived as inappropriate
- Whether the decision is likely to be controversial or affect voting in the election
- The urgency of the decision (can it reasonably wait until after the election?)
- Possible financial repercussions if the decision is deferred; and
- Whether the decision requires community engagement
- Any relevant statutory obligations and timeframes
- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- The best interests of Council and the community

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Governance & ~~Innovation~~ in the first instance.

6.3 Council and Committee Meetings

The following protocols will apply for Council and Committee meetings held during the election period.

6.3.1 Approval of Reports by Chief Executive Officer

All reports to Council and Special Committee meetings will be assessed by the Chief Executive Officer, in accordance with the Act and this policy—, to ensure decisions that would be considered:

- Inappropriate decisions during the election period; and/or
- Major policy decisions

are scheduled for consideration prior to the commencement of the election period or deferred for consideration until after the election.

The Chief Executive Officer will also vet reports to avoid listing matters on an Agenda which could foreseeably influence voters' intentions at the forthcoming election.

The Chief Executive Officer's decision will take into account all the relevant facts and circumstances, including:

- The urgency of the decision (i.e. if the decision could reasonably be deferred until after the election)
- Whether the decision is likely to be controversial or affect voting in the election
- Whether the decision would require the spending of unbudgeted monies
- Whether the decision represents the completion of an activity already commenced and endorsed by the incumbent Council
- Whether the decision requires community engagement
- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- Any relevant statutory obligations and timeframes
- The best interests of the community and Council

6.3.2 Election Period Statement

~~The following statement will be included on all Council and Special Committee meeting agendas and minutes produced during the election period:~~

~~*“The recommended decisions on all reports contained in this agenda do not fall within the definition of a major policy decision or inappropriate decision as defined in Sections 93A & 93B(5) of the Local Government Act 1989 and Council's Election Period Policy”*~~

An election period statement will be included in all reports submitted to Council and Special Committee meetings during the election period. Examples of appropriate election period statements are:

- The recommended decision in this report has been determined by the Chief Executive Officer not to contravene the provisions of the Local Government Act 1989 or the Election Period Policy 2020 with respect major policy decisions or inappropriate decisions.
- The recommended decision in this report is considered to be a major policy decision in accordance with the Local Government Act 1989 and the Election Period Policy 2020 and the Minister for Local Government has granted Council an exemption to Council for the purposes of this decision.

6.3.3 Public Question Time

The Chief Executive Officer or his/her nominated representative will assess all questions received to determine whether they contain electoral matter.

Where a question is deemed to contain electoral matter the Chief Executive Officer or his/her nominated representative shall recommend to the Chairperson that he or she refuse to receive the question pursuant to Clause 62(1)(k) of the Meeting Procedure and Use of Common Seal Local Law 2018.

~~The Chief Executive Officer will assess all questions received to determine whether they contain electoral matter. Any question deemed to contain electoral matter will not be heard at the meeting.~~

If a questioner raises electoral matter during the introduction to their question, they will be requested refrain from doing so. If the questioner fails to comply with this request, they will be asked to resume their seat in the gallery and the question will not be responded to.

6.3.4 Councillor Conduct at Meetings

~~During the election period, Councillors will limit their discussion during debate to the matter under consideration and will avoid raising electoral matter.~~

~~Councillors will not raise other items that contain or relate to electoral matter during the election period at a Council Meeting.~~

Councillor-candidates remain Councillors throughout the election period and obliged to discharge their statutory decision-making role and represent the local community, notwithstanding that they may be candidates in the election.

When attending Council and Committee meetings during the election period Councillors may however, be required to:

- exercise caution so discussion and debate is limited as far as practicable to matters which are not likely to be, or be perceived as, electoral matters.
- avoid as far as practicable, raising notices of motion, urgent business or other items that which are likely to be, or be perceived as, electoral matters.

6.4 Council Resources

Councillors, Committee Members and staff ~~must will~~ ensure that due propriety is observed in the use of all Council resources at any time, and be particularly vigilant during an election period.

Examples of Council resources include:

- Laptops, computers, iPads, and related software including internet, email accounts and Council owned social media accounts.
- Mobile phones including use for calls, data, SMS messages, photos or videos;
- Councillor business cards and name badges;
- Mayoral vehicle
- Council and Committee meetings;
- Phone lines and fax machines provided by Council;
- Council photocopiers and other printing resources including paper;
- Council publications;
- Council merchandise – eg: corporate gifts;
- Council buildings, facilities and carparks – this includes hubs, childcare centres and sporting facilities;
- Council logos, branding, or obvious adaptations thereof;
- Council stationary;
- Photographs or images paid for by Council or taken by Council staff in their official or professional capacity; and
- Staff (inclusive of time, effort and knowledge).

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 or his/her nominated delegate.

6.4.1 Use of Council equipment and services by Councillors

~~Council resources, including (but not limited to) offices, vehicles, staff, hospitality services, photographs, name badges, stationery and equipment (including computer equipment, email addresses and Council funded mobile phones and iPads) will be used exclusively for normal Council business during the election period and will not be used in connection with any election campaign activity.~~

Council resources must be used exclusively for normal Council business and must not be used in connection with any election campaign or to influence voters.

Councillor-candidates must not use Council resources in connection with any activities associated with their election campaigns, regardless of any entitlement to "reasonable personal use" of Council equipment under any other policy, protocol or terms of use.

Councillor-candidates should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred.

Example: Campaign-related phone calls or emails received on Council devices.

Councillor-candidates cannot control how individuals choose to make contact with them on campaign-related matters, and might manage these perceived conflicts by:

- Ensuring they have, and publicise an alternative phone number and email contact for their campaign
- Where practicable, responding to calls or emails using these alternative channels.

6.4.2 Councillors' Entitlement to Reimbursement

Reimbursement of Councillors' out of pocket expenses during the election period 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 to a candidate's election campaign.

6.4.3 Council Branding and Stationery

No Council logos, publications, letterheads, or other Knox City Council branding will be used for, or linked in any way to, a candidate's election campaign.

6.4.4 Mayoral and Councillor Support

Council staff, and in particular the Personal Assistant to the Mayor and Councillors, Governance staff and ~~Marketing and~~ Communications staff, will not undertake any tasks connected directly or indirectly with an election campaign.

6.4.5 Ward-specific publications and activities

No Ward meetings are to be held during the election period.

Ward-specific publications or Councillor profiles and articles in the media, will not be arranged or published by Council during the election period.

6.4.6 Use of Council Facilities

Council facilities cannot be booked for electoral campaigning purposes by Councillors, candidates, or other persons during the election period.

6.4.6 Correspondence

Councillor-candidates remain Councillors throughout the election period and will continue to receive and respond to correspondence for their full term of office.

To avoid perceptions that the administration is providing undue advantage to Councillor-candidates during the election period:

- Where a Councillor-candidate requests staff to prepare a response to correspondence, the Chief Executive Officer (or relevant Director or Manager as appropriate) will also sign and send the response.
- The response will acknowledge the administration is responding due to limitations imposed upon councillor-candidates during the election period.
- A copy of the response will be provided to the Councilor-candidate.
- The Councillor-candidate may separately respond to the correspondence.

6.5 Access to Council Information

Sitting Councillors, including councillor-candidates will continue to receive information that is necessary to fulfil their existing elected roles during the election period.

Information and briefing material prepared by staff for Councillors during the election period however will relate only to factual matters or to existing Council services. Information must not relate to public or election debates or to issues that may be perceived to be connected with or support a candidate's election campaign.

All election candidates are otherwise considered to have equal rights to access information relevant to their election campaigns from the Council administration, however:

- Staff will not provide a response to requests for information that expresses support, or may be perceived to express support for a candidate's election campaign.
- Staff will only provide information to a known candidate or prospective candidate that is generally available to the community.
- Requests for information which require the use of significant Council resources in order to provide a response will be referred to the Chief Executive Officer to determine whether a response can be provided.

~~. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles.~~

~~Neither Councillors nor candidates will receive information or advice from Council staff that may be perceived to support election campaigns.~~

There shall be complete transparency in the provision of all information and advice during the election period.

~~Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council services. Information~~

~~must not relate to public or election debates or to issues that may be perceived to be connected with a candidate's election campaign.~~

In any circumstances where the use of Council information might be construed as being related to a candidate's election campaign, advice should be sought from the Chief Executive Officer or his/her nominated delegate.

6.5.1 Requests for Information

~~During the election period, candidates requesting information from Council, either directly or indirectly, should direct their request to the Chief Executive Officer or the Manager Governance.~~

~~In the interests of transparency, all candidates requesting information from Council during the election period, either directly or indirectly, are expected to identify that the request is being made by or on behalf of a candidate.~~

6.5.2 Information Request Register

~~All requests for information during the election period are to be in writing and directed to the Chief Executive Officer or his/her delegate.~~

~~An Information Request Register will be maintained by the Manager Governance & Innovation during the election period.~~

~~During the election period, the Manager Governance will maintain an Information Request Register.~~

This Register will be a public document that records all requests for information by ~~Councillors and~~ candidates and non-routine requests for information by Councillors, as well as the response given to those requests. The Register will not include requests for information relating to the election process as these will be referred to and managed by the Returning Officer.

~~Any candidate may, upon request, inspect or obtain a copy of the Information Request Register. The Chief Executive Officer may also, at his or her discretion, periodically:~~

- ~~• Circulate a copy of the register to candidates; and or~~
- ~~• Publish the register on Council's website.~~

6.6 6.6 Equity and Assistance to Candidates

~~All candidates in an election will be treated equally by Council which means 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.~~

NOTE: following deleted content has been covered at clause 6

~~Council affirms that all candidates for the Council election will be treated equally.~~

~~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 types of assistance that are available to candidates from Council will be documented and communicated to all candidates from time to time, and may include:~~in advance.~~

- Information about this and other Council policies, strategies and plans;
- Information about nominating as a candidate;
- Information about the practicalities of being a Councillor at the City of Knox.
- Information about election campaign donation returns;
- Guidance to other sources of information relevant to the role of a Councillors, including from the Victorian Electoral Commission and the Returning Officer, Local Government Victoria and local government peak bodies; or

~~All election related enquiries from candidates, whether sitting Councillors or not, 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 his/her delegate for determination.~~

All election related enquiries to Council should be directed to the Chief Executive Officer or the Manager Governance. Where an enquiry is outside the responsibilities of Council, it shall be referred to the Returning Officer.

6.7 Functions and Events and Public Consultation During the Election Period

6.7.1 Council Organised Events and Functions

Where practicable, civic and ceremonial Council events will not be scheduled during the election period.

Civic and ceremonial events do not include routine events and programs conducted as part of Council's day-to-day functions and activities (e.g. immunisation sessions, gallery exhibitions, library programs).

Any civic or ceremonial council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

The Chief Executive Office will also consider other relevant factors before approving a civic or ceremonial event, including, but not limited to:

- Whether the content of the event is likely to be controversial;
- Whether the event could reasonably be deferred until after the election;
- The implications (i.e., financial, reputation) if the event was held during the election period or deferred until after the election; or
- The best interests of the council and the community.

~~Council's annual program of events will be limited to only those essential to the operation of the Council during the election period.~~

6.7.2 Speeches at Council organised or sponsored events

~~Councillors~~Candidates must not give speeches or keynote addresses at Council organised or sponsored events during the election period.

Where it is considered appropriate for a speech to be made on behalf of Council, it will be given by the Chief Executive Officer, or the relevant Director.

- ~~Councillors may make a short welcome speech, however it should not contain any express or implied reference to the election.~~

6.7.3 External Events and Functions

Councillors are able to attend events or functions conducted by external bodies during the election period, however it is critical to determine whether a request is to attend:

- as a representative of Council; or
- as a candidate in the forthcoming election.

~~When~~ attending as a representative of the Council, Councillors must be mindful that they do not use; and are not perceived as using the ~~that~~ opportunity to promote their own, or any candidate's election campaign.

Where Councillors are invited to represent Council at an external function or event during the election period, and make a speech, Councillor-candidates may do so provided:

- The organiser is contacted in advance and briefed on the limitations imposed on Councillors during the election period
- The organiser is requested to avoid any express or implied reference to the election or candidates in the election.
- The Councillors' speech is pre-approved by the Chief Executive Officer and does not contain any express or implied reference to the election or candidates in the election

6.7.4 Publication of Promotion Material

In preparing any publicity material for Council events, the organiser will be mindful of the controls on electoral material as outlined in clause 6.9 of this policy.

Invitations to functions and events will be issued by the Chief Executive Officer and not in the name of the Mayor or individual councillors.

6.8 Public Consultation

No public consultation processes should be undertaken during the election period, unless they are approved in writing by the Chief Executive Officer.

~~It is prohibited under this policy for public consultation to occur during the election period (either new consultation or existing) on an issue which is contentious, unless prior approval is given by the Chief Executive Officer.~~

For the purposes of this section, a public consultation process means a

- Is 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;
- May be undertaken in many forms, including a direct mailout (either electronic or physical), public advertisement in the local newspaper, attendance at focus groups, completion of a survey or discussion via social media.
- Does not include consultation required under the Planning and Environment Act 1987, or section 223 of the Act.

Before approving a public consultation process to proceed during the election period, the Chief Executive Officer will consider:

- Whether the consultation process is likely to be controversial;
- Whether the consultation process is significant in the context of the election;
- Whether the consultation process could wait until after the election;
- The implications (i.e., financial, reputation) if the consultation was undertaken during the election period or deferred until after the election; and
- The best interests of council and the community.

6.9 Council Publications

The Act imposes limitations on Council publications during the election period to ensure Council does not publish material containing electoral matter that may influence, or be seen to influence, people's voting decisions. Section 55D of the Act states:

"A council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer"

The above prohibition does not apply to:

- a) documents that were published prior to the commencement of the election period; or
- b) electoral material produced by, or on behalf of, the Returning Officer for the purposes of conducting the election.

Publications which require certification may include:

- Brochures, pamphlets, handbills, flyers, magazines and books
- Reports (other than those included in an Agenda for a Council or Special Committee meeting)
- Advertisements and notices, except notices of meetings in newspapers
- New website material
- New social media publications
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of councillors' speeches.

~~It should be noted that the controls do not apply to electoral material produced by, or on behalf of, the Returning Officer for the purposes of conducting the election or to simply announce the holding of a meeting.~~

6.9.1 Certification of Council Publications by the Chief Executive Officer

The Chief Executive Officer's certification must be in writing and cannot be delegated to another person.

All relevant publications must be certified using Form 1 (attached) and the process for the certification will be as follows:

- (i) Publication authors are to check that no election material is included when preparing a publication and submit the completed publication to the Manager Governance ~~& Innovation~~ for review
- (ii) The Manager Governance ~~& Innovation~~ is to confirm that no election material is included, and return the publication to the author (if election material is present) or submit it to the Chief Executive Officer for authorisation (if it complies with the requirements of the Act).
- (iii) The Chief Executive Officer is to authorise or reject the publication and return it to the Manager Governance ~~& Innovation~~.
- (iv) The Manager Governance ~~& Innovation~~ will advise the publication author if the publication has been certified by the Chief Executive Officer.
- (v) If certified, the publication can be distributed by the relevant department.
- (vi) The Manager Governance ~~& Innovation~~ is to maintain a register of all documents authorised under this section.

6.9.2 Annual Report

The ~~2019-20 2015-16~~ Annual Report will be affected by the legislative restrictions on publications as the publication date of the report falls within the election period. Therefore information relating to Councillors will be restricted to what is required by the Local Government (Planning and Reporting) Regulations 2014. This includes the name and photographs of each Councillor as well as their membership of special committees and other bodies to which they have been appointed by the Council. During an election year, the Annual Report will not contain a foreword from the Mayor.

6.10 Media and Media Services

Council media and media services are intended to promote Council activities and services and must not be used in any way that might favour any election candidate or influence the outcome of a Council election.

During the election period Council staff are not permitted to make any public statement that could be construed as influencing the elections. This does not include statements of clarification in relation to the election process that have been approved by the Chief Executive Officer.

6.10.1 Media Advice

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. No media advice or assistance will be provided in relation to election campaign matters. In particular, the use of any Council publications that feature specific Councillors and/or individual achievements will be avoided for the duration of the election period.

6.10.2 Media Releases and Responses

All media releases and/or responses during the election period must not contain reference to, or quotes by, any candidate including existing Councillors who are deemed to be candidates, and should avoid referring to electoral matters.

All official media releases, responses or statements on behalf of Council will be issued in the name of the Chief Executive Officer during the election period.

6.10.3 Publicity Campaigns

During the election period, Council 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 service or function, it must be approved by the Chief Executive Officer. Council publicity during the election period will be restricted to promoting normal Council activities.

6.10.4 Website and Social Media

During the election period, information about Councillors on Council's website, will be restricted to names, contact details, titles, membership to committees and other bodies to which they have been appointed by Council.

Council staff will carefully vet existing publications and online information prior to the commencement of the election period and, where practicable and appropriate (having particular regard the resources required) will temporarily withdraw any material that might otherwise constitute electoral matter or reasonably influence or be seen to influence, people's voting decisions the election.

~~For the duration of the election period, social media utilised by Council, including but not limited to facebook, Twitter and YouTube, will be closely monitored and any electoral matter posted by members of the community will be promptly removed.~~

In order to comply with Section 55D of the Act, during the election period Council will:

- a) disable all external posts and comments to Council's social media sites; or
- b) moderate and certify that external posts and comments are free from electoral matter before they are published.

A statement outlining the election period provisions will be published on Council's websites and social media accounts prior to the election period commencing.

6.11 Misuse of Position

Section 76D of the Act prohibits current or former Councillors or members of special committees from using their position to gain access to information or resources that would otherwise not be available.

The Act specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position he or she held or holds
- disclosing information that is confidential information within the meaning of section 77(2) of the Act
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E
- exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform
- using public funds or resources in a manner that is improper or unauthorised
- failing to disclose a conflict of interest.

6.12 Candidacy in the election

6.12.1 Council Staff

Upon becoming a candidate in a Knox City Council election, staff must:

- Inform the Chief Executive Officer;
- Take leave from their duties at least for the duration of the election period in accordance with section 29(3) of the Act (if sufficient paid leave is not accrued, unpaid leave will be available);
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period; and
- If elected, immediately resign from their employed position at Council, in accordance with section 29(3) of the Act.

6.12.2 Members of Council Advisory or other Committees

Upon becoming a candidate, any person who is a member of one of Council's advisory or other committees is expected to:

- Comply with this policy;
- Inform the Chief Executive Officer;
- Take leave from the committee;
- Return any council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the election period; and
- If elected, immediately resign from the committee.

6.126.13 Breach of Policy

Any breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer and may be dealt with in accordance with Council Disciplinary Policy and Procedures.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate.

7. ADMINISTRATIVE UPDATES

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.



Form 1 - Request for certification of publication during the election period

1 Author to complete

Document description (attach document)	<input type="text"/>
Intended distribution channel	<input type="text"/>
I declare that I have reviewed the material contained in the attached document and to the best of my knowledge, it does not contain any electoral matter.	
Name and Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

2 Manager Governance & Innovation (or nominee) to complete

I declare that I have reviewed the material contained in the attached document and to the best of my knowledge, it does not contain any electoral matter.	
Name and Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

3 Chief Executive to complete

In accordance with section 55D(1) of the Local Government Act 1989, I certify that the attached advertisement, handbill, pamphlet or notice may be printed, published or distributed during the election period on behalf of Knox City Council.	
Signature	<input type="text"/>
Date	<input type="text"/>



Election Period

Policy Number:	2005/02	Directorate:	Corporate Services
Approval by:	Council	Responsible Officer:	Coordinator Governance
Approval Date:	25 November 2019	Version Number:	5
Review Date:	Not later than 12 months before the next general election period		

1 Purpose

This Election Period Policy & Procedure (Policy) The Election Period Policy has been developed to ensure that the Knox City Council municipal elections are conducted in a manner that is fair, equitable, and publicly perceived as such.

This policy further ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established 'caretaker' conventions.

2 Context

Having an Election Period Policy is a requirement of section 93B of the Local Government Act 1989 ('the Act') which requires Council to prepare, adopt and maintain an election period policy which explains:

- the procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- the limitations placed on public consultation and the scheduling of Council events during the election period before a general election; and
- the procedures intended to ensure that information held by Council is made equally available and accessible to candidates during the election period before a general election.

3 Scope

This policy will apply to Councillors, Council staff and candidates for the Knox City Council general elections to be held on Saturday, 24 October 2020.



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5 References

4.1 Community & Council Plan 2017-2021

- Goal 8, We have confidence in decision making

4.2 Relevant Legislation

- Local Government Act 1989

4.3 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights.

4.4 Related Council Policies

- Councillor Code of Conduct
- Staff Code of Conduct
- Minor Grants Program Policy
- Social Media Policy

4.5 Related Council Procedures

- Nil

6 Definitions

Detail any definitions within the policy.

Candidate	<p>A person who has:</p> <ul style="list-style-type: none"> • Within 12 months of the election, publicly expressed an intention to run as a candidate in the election; and or • a person who has formally nominated as a candidate in the election with the returning officer. <p>A candidate is a “known candidate” when a person has actual knowledge of the candidate’s identity and that they meet the above definition.</p>
Council	Knox City Council, whether constituted before or after the commencement of this Policy.
Election Day	<p>In the case of an election, the day of an election determined under section 31 or 38 of the Act.</p> <p>For the 2020 elections, election day is Saturday, 24 October 2020.</p>



Electoral Matter	<p>As defined in section 3(1A) and 3(1B) of the Act and detailed below:</p> <p>Any 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 returning officer for the purposes of conducting an election.</p> <p>Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—</p> <p>(a) the election; or</p> <p>(b) a candidate in the election; or</p> <p>(c) an issue submitted to, or otherwise before, the voters in connection with the election.</p>
Election Period	<p>The period commencing on the last day on which nominations for that election can be received and ending at 6.00pm on Election Day.</p> <p>For the 2020 elections, the election period will apply from 22 September 2020 until 6:00pm on Saturday, 24 October 2020 inclusive.</p>
Inappropriate Decision	<p>As defined in Section 93B(5) of the Act and detailed below:</p> <p>a) decisions that would affect voting in an election;</p> <p>b) decisions that could reasonably be made after the election</p>
Major Policy Decision	<p>As defined in Section 93A(6) of the Act and detailed below:</p> <p>a) relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;</p> <p>b) to terminate the appointment of a Chief Executive Officer under section 94;</p> <p>c) to enter into a contract the total value of which exceeds whichever is the greater of –</p> <p>i. \$100,000 or such higher amount as may be fixed by Order in Council under section 186(1); or</p> <p>ii. 1% of the Council’s revenue from rates and charges levied under section 158 in the preceding financial year;</p> <p>to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100,000 or 1% of the Council’s revenue from rates and charges levied under section 158 in the preceding financial year.</p>
Returning officer	<p>As defined in Section 3(1) of the Act and detailed below:</p> <p>(a) the Electoral Commissioner; or</p> <p>(b) a person appointed in writing by the Electoral Commissioner;</p>
Staff, Council staff, or staff member	<p>means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Knox City Council</p>



7 Council Policy

1. During the election period:
 - Council will not make major policy decisions contrary to the Act.
 - Council will not make inappropriate decisions contrary to the Act.
 - Council will limit public consultation, public meetings and Council events in order to facilitate Council's day-to-day business while avoiding any express or implied links to the election.
 - Council will not print, publish or distribute electoral matter contrary to the Act.
2. Council resources, events and activities must not be used for election campaign purposes, or in a way that might improperly influence the result of an election.
3. Information held by Council will be equally and transparently available and accessible to all candidates.
4. Assistance and advice provided to candidates will be provided equally and transparently to all candidates.
5. The Chief Executive Officer shall take reasonable steps to inform affected persons of this policy.

7.1 Commencement of Election Period

No later than 30 days prior to the commencement of the election period, the Chief Executive Officer will ensure:

- all Councillors, Staff and Committee members are reminded of the forthcoming election period and the application of this policy.
- This policy is prominently displayed on Council's website for the benefit of the community and candidates (actual or potential).

7.2 Decision Making During the Election Period

Council, a special committee of Council or a person acting under delegated authority of Council must not make major policy decisions or inappropriate decisions during the election period for a general election.

7.2.1 Major Policy Decisions

Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. Therefore, where the Council considers extraordinary circumstances do exist where a delay in decision making would result in significant detriment to the community, Council may apply in writing to the Minister for an exemption in accordance with the Act. A major policy decision made in contravention of the Act is invalid.

7.2.2 Inappropriate Decisions

Decisions on the following matters during the election period (whether made by Council, a Special Committee or staff member exercising delegation), are considered inappropriate decisions for the purposes of the Act and this policy:

- Allocation of community grants or other direct funding to community organisations including those under the Minor Grants Program Policy.
- Major planning scheme amendments
- Sale or discontinuance of roads etc



- Changes to the strategic objectives and strategies in the Council Plan
- Acquisition or disposition of land
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Appointing representatives to Council committees
- Naming or re-naming of roads, reserves or features
- Noting the results of community consultation.

Assistance in determining whether a decision is likely to be inappropriate should be sought from the Manager Governance in the first instance.

7.2.3 Officer Decisions under Delegated Authority

Before making a decision under delegated authority during the election period, officers should consider all the relevant facts and circumstances, including:

- Whether the decision is, or may be perceived as inappropriate
- Whether the decision is likely to be controversial or affect voting in the election
- The urgency of the decision (can it reasonably wait until after the election?)
- Possible financial repercussions if the decision is deferred; and
- Whether the decision requires community engagement
- Any relevant statutory obligations and timeframes
- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- The best interests of Council and the community

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Governance in the first instance.



7.3 Council and Committee Meetings

The following protocols will apply for Council and Committee meetings held during the election period.

7.3.1 Approval of Reports by Chief Executive Officer

All reports to Council and Special Committee meetings will be assessed by the Chief Executive Officer, in accordance with the Act and this policy, to ensure decisions that would be considered:

- Inappropriate decisions during the election period; and/or
- Major policy decisions

are scheduled for consideration prior to the commencement of the election period or deferred for consideration until after the election.

The Chief Executive Officer will also vet reports to avoid listing matters on an Agenda which could foreseeably influence voters' intentions at the forthcoming election.

The Chief Executive Officer's decision will take into account all the relevant facts and circumstances, including:

- The urgency of the decision (i.e. if the decision could reasonably be deferred until after the election)
- Whether the decision is likely to be controversial or affect voting in the election
- Whether the decision would require the spending of unbudgeted monies
- Whether the decision represents the completion of an activity already commenced and endorsed by the incumbent Council
- Whether the decision requires community engagement
- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- Any relevant statutory obligations and timeframes
- The best interests of the community and Council



7.3.2 Election Period Statement

An election period statement will be included in all reports submitted to Council and Special Committee meetings during the election period. Examples of appropriate election period statements are:

- The recommended decision in this report has been determined by the Chief Executive Officer not to contravene the provisions of the Local Government Act 1989 or the Election Period Policy 2020 with respect major policy decisions or inappropriate decisions.
- The recommended decision in this report is considered to be a major policy decision in accordance with the Local Government Act 1989 and the Election Period Policy 2020 and the Minister for Local Government has granted Council an exemption to Council for the purposes of this decision.

7.3.3 Public Question Time

The Chief Executive Officer or his/her nominated representative will assess all questions received to determine whether they contain electoral matter.

Where a question is deemed to contain electoral matter the Chief Executive Officer or his/her nominated representative shall recommend to the Chairperson that he or she refuse to receive the question pursuant to Clause 62(1)(k) of the Meeting Procedure and Use of Common Seal Local Law 2018.

If a questioner raises electoral matter during the introduction to their question, they will be requested refrain from doing so. If the questioner fails to comply with this request, they will be asked to resume their seat in the gallery and the question will not be responded to.

7.3.4 Councillor Conduct at Meetings

Councillor-candidates remain Councillors throughout the election period and obliged to discharge their statutory decision-making role and represent the local community, notwithstanding that they may be candidates in the election.

When attending Council and Committee meetings during the election period Councillors may however, be required to:

- exercise caution so discussion and debate is limited as far as practicable to matters which are not likely to be, or be perceived as, electoral matters.
- avoid as far as practicable, raising notices of motion, urgent business or other items that which are likely to be, or be perceived as, electoral matters.

7.4 Council Resources

Councillors, Committee Members and staff must ensure that due propriety is observed in the use of all Council resources at any time, and be particularly vigilant during an election period.

Examples of Council resources include:

- Laptops, computers, iPads, and related software including internet, email accounts and Council owned social media accounts.
- Mobile phones including use for calls, data, SMS messages, photos or videos;



- Councillor business cards and name badges;
- Mayoral vehicle
- Council and Committee meetings;
- Phone lines and fax machines provided by Council;
- Council photocopiers and other printing resources including paper;
- Council publications;
- Council merchandise – eg: corporate gifts;
- Council buildings, facilities and carparks – this includes hubs, childcare centres and sporting facilities;
- Council logos, branding, or obvious adaptations thereof;
- Council stationary;
- Photographs or images paid for by Council or taken by Council staff in their official or professional capacity; and
- Staff (inclusive of time, effort and knowledge).

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 or his/her nominated delegate.

7.4.1 Use of Council equipment and services by Councillors

Council resources must be used exclusively for normal Council business and must not be used in connection with any election campaign or to influence voters.

Councillor-candidates must not use Council resources in connection with any activities associated with their election campaigns, regardless of any entitlement to "reasonable personal use" of Council equipment under any other policy, protocol or terms of use.

Councillor-candidates should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred.

Example: Campaign-related phone calls or emails received on Council devices.

Councillor-candidates cannot control how individuals choose to make contact with them on campaign-related matters, and might manage these perceived conflicts by:

- *Ensuring they have, and publicise an alternative phone number and email contact for their campaign*
- *Where practicable, responding to calls or emails using these alternative channels.*

7.4.2 Councillors' Entitlement to Reimbursement

Reimbursement of Councillors' out of pocket expenses during the election period 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 to a candidate's election campaign.



7.4.3 Council Branding and Stationery

No Council logos, publications, letterheads, or other Knox City Council branding will be used for, or linked in any way to, a candidate's election campaign.

7.4.4 Mayoral and Councillor Support

Council staff, and in particular the Personal Assistant to the Mayor and Councillors, Governance staff and Communications staff, will not undertake any tasks connected directly or indirectly with an election campaign.

7.4.5 Ward-specific publications and activities

No Ward meetings are to be held during the election period.

Ward-specific publications or Councillor profiles and articles in the media, will not be arranged or published by Council during the election period.

7.4.6 Use of Council Facilities

Council facilities cannot be booked for electoral campaigning purposes by Councillors, candidates, or other persons during the election period.

7.4.7 Correspondence

Councillor-candidates remain Councillors throughout the election period and will continue to receive and respond to correspondence for their full term of office.

To avoid perceptions that the administration is providing undue advantage to Councillor-candidates during the election period:

- Where a Councillor-candidate requests staff to prepare a response to correspondence, the Chief Executive Officer (or relevant Director or Manager as appropriate) will also sign and send the response.
- The response will acknowledge the administration is responding due to limitations imposed upon councillor-candidates during the election period.
- A copy of the response will be provided to the Councillor-candidate.
- The Councillor-candidate may separately respond to the correspondence.

7.5 Access to Council Information

Sitting Councillors, including councillor-candidates will continue to receive information that is necessary to fulfil their existing elected roles during the election period.

Information and briefing material prepared by staff for Councillors during the election period however will relate only to factual matters or to existing Council services. Information must not relate to public or election debates or to issues that may be perceived to be connected with or support a candidate's election campaign.

All election candidates are otherwise considered to have equal rights to access information relevant to their election campaigns from the Council administration, however:

- Staff will not provide responses to requests for information that express support, or may be perceived to express support for a candidate's election campaign.



- Staff will only provide information to a known candidate or prospective candidate that is generally available to the community.
- Requests for information which require the use of significant Council resources in order to provide a response will be referred to the Chief Executive Officer to determine whether a response can be provided.

There shall be complete transparency in the provision of all information and advice during the election period.

In any circumstances where the use of Council information might be construed as being related to a candidate's election campaign, advice should be sought from the Chief Executive Officer or his/her nominated delegate.

7.5.1 Requests for Information

During the election period, candidates requesting information from Council, either directly or indirectly, should direct their request to the Chief Executive Officer or the Manager Governance.

In the interests of transparency, all candidates requesting information from Council during the election period, either directly or indirectly, are expected to identify that the request is being made by or on behalf of a candidate.

7.5.2 Information Request Register

During the election period, the Manager Governance will maintain an Information Request Register.

This Register will be a public document that records all requests for information by candidates and non-routine requests for information by Councillors, as well as the response given to those requests. The Register will not include requests for information relating to the election process as these will be referred to and managed by the Returning Officer.

Any candidate may, upon request, inspect or obtain a copy of the Information Request Register. The Chief Executive Officer may also, at his or her discretion, periodically:

- Circulate a copy of the register to candidates; and or
- Publish the register on Council's website.

7.6 Equity and Assistance to Candidates

All candidates in an election will be treated equally by Council which means 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 types of assistance that are available to candidates from Council will be documented and communicated to all candidates from time to time, and may include:

- Information about this and other Council policies, strategies and plans;
- Information about nominating as a candidate;
- Information about the practicalities of being a Councillor at the City of Knox.
- Information about election campaign donation returns;
- Guidance to other sources of information relevant to the role of a Councillors, including from the Victorian Electoral Commission and the Returning Officer, Local Government Victoria and local government peak bodies; or



All election related enquiries to Council should be directed to the Chief Executive Officer or the Manager Governance. Where an enquiry is outside the responsibilities of Council, it shall be referred to the Returning Officer.

7.7 Functions Events and Public Consultation

7.7.1 Council Organised Events and Functions

Where practicable, civic and ceremonial Council events will not be scheduled during the election period.

Civic and ceremonial events do not include routine events and programs conducted as part of Council's day-to-day functions and activities (e.g. immunisation sessions, gallery exhibitions, library programs).

Any civic or ceremonial council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

The Chief Executive Office will also consider other relevant factors before approving a civic or ceremonial event, including, but not limited to:

- Whether the content of the event is likely to be controversial;
- Whether the event could reasonably be deferred until after the election;
- The implications (i.e., financial, reputation) if the event was held during the election period or deferred until after the election; or
- The best interests of the council and the community.

7.7.2 Speeches at Council organised or sponsored events

Candidates must not give speeches or keynote addresses at Council organised or sponsored events during the election period.

Where it is considered appropriate for a speech to be made on behalf of Council, it will be given by the Chief Executive Officer, or the relevant Director.

7.7.3 External Events and Functions

Councillors are able to attend events or functions conducted by external bodies during the election period, however it is critical to determine whether a request is to attend:

- as a representative of Council; or
- as a candidate in the forthcoming election.

When attending as a representative of the Council, Councillors must be mindful that they do not use; and are not perceived as using the opportunity to promote their own, or any candidate's election campaign.



Where Councillors are invited to represent Council at an external function or event during the election period, and make a speech, Councillor-candidates may do so provided:

- The organiser is contacted in advance and provided information on the limitations imposed on Councillors during the election period .
- The organiser is requested to avoid any express or implied reference to the election or candidates in the election.
- The Councillors' speech is pre-approved by the Chief Executive Officer and does not contain any express or implied reference to the election or candidates in the election.

7.7.4 Publication of Promotion Material

In preparing any publicity material for Council events, the organiser will be mindful of the controls on electoral material as outlined in clause 6.9 of this policy.

Invitations to functions and events will be issued by the Chief Executive Officer and not in the name of the Mayor or individual councillors.

7.8 Public Consultation

No public consultation processes should be undertaken during the election period, unless they are approved in writing by the Chief Executive Officer.

For the purposes of this section, a public consultation process

- Is 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;
- May be undertaken in many forms, including a direct mailout (either electronic or physical), public advertisement in the local newspaper, attendance at focus groups, completion of a survey or discussion via social media.
- Does not include consultation required under the Planning and Environment Act 1987, or section 223 of the Act.

Before approving a public consultation process to proceed during the election period, the Chief Executive Officer will consider:

- Whether the consultation process is likely to be controversial;
- Whether the consultation process is significant in the context of the election;
- Whether the consultation process could wait until after the election;
- The implications (i.e., financial, reputation) if the consultation was undertaken during the election period or deferred until after the election; and
- The best interests of council and the community.

7.9 Council Publications

The Act imposes limitations on Council publications during the election period to ensure Council does not publish material containing electoral matter that may influence, or be seen to influence, people's voting decisions. Section 55D of the Act states:



“A council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer”

The above prohibition does not apply to:

- a) documents that were published prior to the commencement of the election period; or
- b) electoral material produced by, or on behalf of, the Returning Officer for the purposes of conducting the election.

Publications which require certification may include:

- Brochures, pamphlets, handbills, flyers, magazines and books
- Reports (other than those included in an Agenda for a Council or Special Committee meeting)
- Advertisements and notices, except notices of meetings in newspapers
- New website material
- New social media publications
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of councillors' speeches.

7.9.1 Certification of Council Publications by the Chief Executive Officer

The Chief Executive Officer's certification must be in writing and cannot be delegated to another person.

All relevant publications must be certified using Form 1 (attached) and the process for the certification will be as follows:

- (i) Publication authors are to check that no election material is included when preparing a publication and submit the completed publication to the Manager Governance for review
- (ii) The Manager Governance is to confirm that no election material is included, and return the publication to the author (if election material is present) or submit it to the Chief Executive Officer for authorisation (if it complies with the requirements of the Act).
- (iii) The Chief Executive Officer is to authorise or reject the publication and return it to the Manager Governance.
- (iv) The Manager Governance will advise the publication author if the publication has been certified by the Chief Executive Officer.
- (v) If certified, the publication can be distributed by the relevant department.
- (vi) The Manager Governance is to maintain a register of all documents authorised under this section.

7.9.2 Annual Report

The 2019-20 Annual Report will be affected by the legislative restrictions on publications as the publication date of the report falls within the election period. Therefore information relating to



Councillors will be restricted to what is required by the Local Government (Planning and Reporting) Regulations 2014. This includes the name and photographs of each Councillor as well as their membership of special committees and other bodies to which they have been appointed by the Council. During an election year, the Annual Report will not contain a foreword from the Mayor.

7.10 Media and Media Services

Council media and media services are intended to promote Council activities and services and must not be used in any way that might favour any election candidate or influence the outcome of a Council election.

During the election period Council staff are not permitted to make any public statement that could be construed as influencing the elections. This does not include statements of clarification in relation to the election process that have been approved by the Chief Executive Officer.



7.10.1 Media Advice

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. No media advice or assistance will be provided in relation to election campaign matters. In particular, the use of any Council publications that feature specific Councillors and/or individual achievements will be avoided for the duration of the election period.

7.10.2 Media Releases and Responses

All media releases and/or responses during the election period must not contain reference to, or quotes by, any candidate including existing Councillors who are deemed to be candidates, and should avoid referring to electoral matters.

All official media releases, responses or statements on behalf of Council will be issued in the name of the Chief Executive Officer during the election period.

7.10.3 Publicity Campaigns

During the election period, Council 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 service or function, it must be approved by the Chief Executive Officer. Council publicity during the election period will be restricted to promoting normal Council activities.

7.10.4 Website and Social Media

During the election period, information about Councillors on Council's website, will be restricted to names, contact details, titles, membership to committees and other bodies to which they have been appointed by Council.

Council staff will carefully vet existing publications and online information prior to the commencement of the election period and, where practicable and appropriate (having particular regard the resources required) will temporarily withdraw any material that might otherwise constitute electoral matter or reasonably influence or be seen to influence, people's voting decisions the election. In order to comply with Section 55D of the Act, during the election period Council will:

- a) disable all external posts and comments to Council's social media sites; or
- b) moderate and certify that external posts and comments are free from electoral matter before they are published.

A statement outlining the election period provisions will be published on Council's websites and social media accounts prior to the election period commencing.



7.11 Misuse of Position

Section 76D of the Act prohibits current or former Councillors or members of special committees from using their position to gain access to information or resources that would otherwise not be available.

The Act specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position he or she held or holds
- disclosing information that is confidential information within the meaning of section 77(2) of the Act
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E
- exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform
- using public funds or resources in a manner that is improper or unauthorised
- failing to disclose a conflict of interest.

7.12 Candidacy in the election

7.12.1 Council Staff

Upon becoming a candidate in a Knox City Council election, staff must:

- Inform the Chief Executive Officer;
- Take leave from their duties at least for the duration of the election period in accordance with section 29(3) of the Act (if sufficient paid leave is not accrued, unpaid leave will be available);
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period; and
- If elected, immediately resign from their employed position at Council, in accordance with section 29(3) of the Act.

7.12.2 Members of Council Advisory or other Committees

Upon becoming a candidate, any person who is a member of one of Council's advisory or other committees is expected to:

- Comply with this policy;
- Inform the Chief Executive Officer;
- Take leave from the committee;
- Return any council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the election period; and
- If elected, immediately resign from the committee.



7.13 Breach of Policy

Any breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer and may be dealt with in accordance with Council Disciplinary Policy and Procedures.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate.

8 Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.



1 Form 1 - Request for certification of publication during the election period

1 Author to complete

Document description (attach document)	<input type="text"/>
Intended distribution channel	<input type="text"/>
I declare that I have reviewed the material contained in the attached document and to the best of my knowledge, it does not contain any electoral matter.	
Name and Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

2 Manager Governance & Innovation (or nominee) to complete

I declare that I have reviewed the material contained in the attached document and to the best of my knowledge, it does not contain any electoral matter.	
Name and Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

3 Chief Executive to complete

In accordance with section 55D(1) of the Local Government Act 1989, I certify that the attached advertisement, handbill, pamphlet or notice may be printed, published or distributed during the election period on behalf of Knox City Council.	
Signature	<input type="text"/>
Date	<input type="text"/>