



POLICY NO. CP 5.4.39 ELECTIONS – CARETAKER PERIOD

PURPOSE To ensure the City’s activities and those of Councillors who are candidates in local government elections, are undertaken in a manner that supports a high standard of integrity during local government election periods.

POLICY STATEMENT

PART 1 – INTRODUCTION

1.1 Objective

The primary objectives of this Policy are to avoid the Council of the City of Gosnells making major decisions prior to an election that would bind an incoming Council; prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Councillors who are seeking re-election, or new candidates; and ensuring the City of Gosnells administration acts impartially in relation to candidates.

1.2 Scope

This Policy applies during a ‘Caretaker Period’ to cover:

- (a) Decisions that are made by the Council;
- (b) Materials published by the City;
- (c) Attendance and participation in functions and events;
- (d) Use of the City’s resources; and
- (e) Access to City information.

1.3 Application

This Caretaker Policy applies to Councillors, electoral candidates and employees of the City of Gosnells.

1.4 Definitions

‘Caretaker Period’ means the period of time when the caretaker practices are in place prior to the election. Caretaker practices will apply from the 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.

‘Election Day’ means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election.

‘Electoral Material’ means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election

‘Events and Functions’ means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the City and its stakeholders and may take



the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions.

‘Major Policy Decision’ means any:

- (a) Decisions relating to the employment, termination or remuneration of the Chief Executive Officer, other than a decision to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract);
- (b) Decisions relating to the City entering into a sponsorship arrangement with a total City contribution value exceeding \$10,000 (excluding GST);
- (c) Irrevocable decisions that commit the City to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by a Councillor;
- (d) Irrevocable decisions that will have a significant impact on the City of Gosnells or the community; and
- (e) Reports requested or initiated by a Councillor, candidate or member of the public that, in the Chief Executive Officer’s opinion, may be perceived within the general community as an electoral issue that reflects upon the Council’s decision-making process, and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

‘Public Consultation’ means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

1.5 Scheduling Consideration of Major Policy Decisions

So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

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

Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council in accordance with Part 3 of this policy.

1.6 Decisions Made Prior to a 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.

**PART 2 - EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION****2.1 Extraordinary Circumstances**

The Chief Executive Officer may, where extraordinary circumstances prevail, permit a matter defined as a 'major policy decision' to be submitted to the Council. The Chief Executive Officer is to have regard to a number of circumstances, including but not limited to:

- (a) The urgency of the issue (that is - can it wait until after the election);
- (b) The possibility of legal and/or financial repercussions if it is deferred;
- (c) Whether the decision is likely to be controversial; and
- (d) The best interests of the City of Gosnells.

2.2 Appointment or Removal of the Chief Executive Officer

Whilst clause 1.3 of this policy establishes that a Chief Executive Officer may not be appointed or dismissed during a Caretaker Period, in the case of an emergency, the Council may appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract that allow suspension), pending the election, after which date a permanent decision can be made.

PART 3 - CARETAKER STATEMENT

To ensure the Council complies with its commitment to appropriate decision making during the Caretaker Period, where a report requires a 'Major Policy Decision' to be made during the Caretaker Period, the following statement will be included in the report:

"The recommended decision is a 'Major Policy Decision' within the context of Council Policy 5.4.39 'Elections – Caretaker Period' however; an exemption should be made due to extraordinary circumstances (insert the circumstances for making the exemption)".

PART 4 - CITY OF GOSNELLS PUBLICATIONS**4.1 Electoral Material Relevant to Prohibition**

Without limiting the generality of the definition of 'electoral material', material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

- (a) A candidate in the election; or
- (b) An issue submitted to, or otherwise before, the voters in connection with the election.

**4.2 Candidate and/or Councillor Publications**

Candidates and/or Councillors 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.

4.3 City of Gosnells Publications

Any reference to Councillors in City publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the City's publications that are potentially affected by this policy will be reviewed by the Chief Executive Officer 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'.

4.4 City of Gosnells Councillor Business Cards

During the Caretaker Period, Councillors shall ensure that their allocated business cards are used only for purposes associated with the normal role of a Councillor in servicing their electorate. Councillor Business Cards shall not be used in a manner that could be perceived as an electoral purpose. It should be noted that this prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

PART 5 - PUBLIC CONSULTATION DURING THE CARETAKER PERIOD**5.1 Prohibition**

It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which is contentious, unless the consultation is a mandatory statutory process or prior approval is given by the Chief Executive Officer.

PART 6 - ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS**6.1 Public Events Hosted by External Bodies**

Councillors may continue to attend events and functions hosted by external bodies during the Caretaker Period.

6.2 City of Gosnells Organised Civic Events/Functions

Civic events/functions organised by the City and held during the Caretaker Period will be reduced to only those essential to the operation of the City, and should not in any way be associated with any issues considered topical and relevant to the election or be used as a forum for political canvassing.

6.3 Addresses by Councillors

Councillors who are also candidates should not, where possible, be permitted to make speeches or addresses at events/functions organised or sponsored by the City



during the Caretaker Period. Councillors may make short welcome speeches at events and functions organised or sponsored by the City during the Caretaker Period subject to prior approval of the Chief Executive Officer.

6.4 Delegates to Community and Advisory Groups

Councillors appointed to community groups, advisory groups and other external organisations as representatives of the City shall not use their attendance at meetings of such groups to either recruit assistance with electoral campaigning or to promote their personal or other candidates' electoral campaigns.

PART 7 - THE USE OF CITY OF GOSNELLS' RESOURCES

Council Policy 5.4.10 'Code of Conduct – Councillors and Employees' and the *Local Government (Rules of Conduct) Regulations 2007* provide that the City's resources are only to be utilised for authorised activities (for example – prohibits the use of employees for personal tasks and prohibits the use of equipment, stationery, or hospitality for non-Council business). This includes the use of resources for electoral purposes. It should be noted that the prohibition on the use of the City's resources for electoral purposes is not restricted to the Caretaker Period.

The City's staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of City resources might be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

PART 8 - ACCESS TO COUNCIL INFORMATION AND ASSISTANCE

8.1 Councillor Access to Information

During a Caretaker Period, Councillors are able to access Council information relevant to the performance of their functions as a Councillor.

However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this policy. Any Council information so accessed must not be used for election purposes.

8.2 Electoral Information

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls) and information relevant to their election campaigns from the City administration. Information, briefing material and advice prepared or secured by staff for a Councillor must be necessary to the carrying out of the Councillor's role and must not be related to election issues that might be perceived to be of an electoral nature (refer to Part 8 of this policy).

Any information provided to candidates as part of the conduct of the local government election will be provided equally to all candidates.

**8.3 Information Request Register**

An Information Request Register will be maintained by the CEO during the Caretaker Period. This Register will be a public document that records all requests for information made by Councillors and candidates, and the response given to those requests, during the Caretaker Period. Staff will be required to provide details of requests to the Chief Executive Officer for inclusion in the Register.

8.4 Media Advice

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

8.5 Publicity Campaigns

During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a City activity, it must be approved by the Chief Executive Officer. In any event, the City's publicity during the Caretaker Period will be restricted to communicating normal City activities and initiatives.

8.6 Media Attention

Councillors will not use their position as an elected representative or their access to City staff or resources to gain media attention in support of their or any other candidate's election campaign.

8.7 City of Gosnells Employees

During the Caretaker Period no City employee may make any public statement that relates to an election issue unless the statements have been approved by the Chief Executive Officer.

8.8 Election Process Enquiries

All election process enquiries from candidates, whether current Councillors or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Chief Executive Officer.



GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995, Part 4 Local Government (Elections) Regulations 1996
Industry Compliance	Department of Premier and Cabinet – Caretaker Conventions (2008)
Organisational Compliance	
Process Links	

POLICY ADMINISTRATION

Directorate	Officer Title	Contact:
Business Services	Director Business Services	9397 3000
Risk Rating Low	Review Cycle Triennial	Next Due: 2023

Version	Decision Reference	Synopsis
1.	OCM 417/25/08/2009	New policy to guide on effective probity during electoral periods.
2.	OCM 602/15/12/2009	Amended to clarify that candidates who are not sitting Councillors will not be individually introduced at civic events/functions.
3.	OCM 378/23/08/2011	Reviewed with no amendments.
4.	OCM 382/23/09/2014	Reviewed and amended.
5.	OCM 317/26/09/2017	Reviewed and clause 7.2 amended.
6.	OCM 251/08//09/2020	Reviewed and amended.