



# Council Policy Manual

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## CP10.15 CARETAKER POLICY – CITY OF PERTH ELECTIONS

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### POLICY OBJECTIVE

The primary objective of this Caretaker Policy is to avoid the Council of the City of Perth 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 or disadvantageous to, or promoting, sitting Elected Members who are seeking re-election or new candidates, and recognising the requirement for the City of Perth administration to act impartially in relation to all candidates.

This Policy applies during a ‘Caretaker Period’ (see below for a definition) 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;
- e. access to information held by the City.

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### POLICY STATEMENT

#### 1. INTRODUCTION

##### 1.1 Objective

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### 1.2 Application

This Caretaker Policy applies to Elected Members and employees of the City of Perth.

Whilst electoral candidates that are not sitting Elected Members cannot be compelled to comply with a policy of the Council, such candidates will be made aware of the Caretaker Policy and encouraged to cooperate with its implementation.

### 1.3 Definitions

**‘Caretaker Period’** means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations (37 days prior to the Election Day – Section 4.49 (a) of the Local Government Act 1995) until 6.00pm 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 but excludes an extraordinary election other than an extraordinary election to elect a new Lord Mayor

**‘Electoral Material’** means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- a. An advertisement in a newspaper announcing the holding of a meeting (Section 4.87 (3) of the *Local Government Act 1995*).
- b. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.
- c. Any materials produced by the City relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.



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**‘Extraordinary Circumstances’** means a situation that requires a major policy decision of the Council because:

- a. in the CEO’s opinion, the urgency of the issue is such that it cannot wait until after the election;
- b. of the possibility of legal and/or financial repercussions if a decision is deferred; or
- c. in the CEO’s opinion, it is in the best interests of the Council and/or the City of Perth for the decision to be made as soon as possible.

**‘Major Policy Decision’** means any:

- a. Decisions relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their contract), pending the election.
- b. Decisions relating to the City entering into a sponsorship arrangement with a total City contribution that would constitute substantial expenditure unless that sponsorship arrangement has previously been granted “in principle” support by the Council and sufficient funds have been included in the Council’s annual budget to support the project.
- c. Decisions relating to the City entering into a commercial enterprise as defined by Section 3.59 of the *Local Government Act 1995*.
- d. Decisions that would commit the City to substantial expenditure or actions that, in the CEO’s opinion, are significant, such as that which might be brought about through a Notice of Motion by an Elected Member.
- e. Decisions that, in the CEO’s opinion, will have a significant impact on the City of Perth or the community.
- f. Reports requested or initiated by an Elected Member, candidate or member of the public that, in the CEO’s opinion could, be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

**‘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 but does not include consultation required to be undertaken in order to comply with a written law.



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**‘Substantial Expenditure’** means expenditure that exceeds 0.1% of the City’s annual budgeted revenue (inclusive of GST) in the relevant financial year.

### 1.4 Scheduling Consideration of Major Policy Decisions

So far as is reasonably practicable, the CEO 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 CEO may submit a major policy decision to the Council (refer to Part 3).

### 1.5 Decisions Made Prior to a Caretaker Period

This Policy only applies to 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 or after it has concluded.

## 2. IMPLEMENTATION OF CARETAKER PRACTICES

### 2.1 Role of the CEO in Implementing Caretaker Practices

The role of the CEO in implementing the caretaker practices outlined in this policy is as follows:

- a. The CEO will ensure as far as possible, that all Elected Members and staff are aware of the Caretaker Policy and practices at least 30 days prior to the start of the Caretaker Period.
- b. The CEO will ensure that all candidates in an election are aware of the City’s voluntary ‘Candidate Code of Conduct’ upon acceptance of their nomination.
- c. The CEO will ensure, as far as possible, that any major policy or significant decisions required to be made by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where possible for determination by the incoming Council.



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- d. The CEO will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period.
- e. The CEO will provide guidelines for all relevant staff on the role and responsibilities of staff in the implementation of this policy.

### 3. EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION

#### 3.1 Extraordinary Circumstances

Despite clause 1.4, the CEO may, where extraordinary circumstances exist, permit a matter defined as a ‘major policy decision’ to be submitted to the Council for determination during the Caretaker Period.

#### 3.2 Appointment or Removal of The CEO

Whilst part 1.3 above establishes that a CEO may not be appointed or dismissed during a Caretaker Period, the Council may, where the substantive officer is on leave, appoint an Acting CEO, or in the case of an emergency, suspend the current CEO (in accordance with the terms of their contract) and appoint a person to act in the position of CEO, pending the election, after which date a permanent decision can be made.

### 4. CARETAKER STATEMENT

To assist the Council to comply with its commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in each report submitted to the Council where the Council’s decision would, or could, be a Major Policy Decision. The Caretaker Statement will state:

“The decision the Council may make in relation to this item could constitute a ‘Major Policy Decision’ within the context of the City of Perth Caretaker Policy, however, an exemption should be made because, (insert the circumstances for making the exemption)”.



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### 5. CITY OF PERTH PUBLICATIONS

#### 5.1 City of Perth Website

During the Caretaker Period the City's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about Elected Members will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council.

### 6. PUBLIC CONSULTATION DURING THE CARETAKER PERIOD

#### 6.1 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, in the CEO's opinion, could be perceived as intended or calculated to affect the result of an election, unless authorised by the CEO.

This Policy does not prevent any mandatory public consultation required by the *Local Government Act 1995* or any other relevant Act which is required to be undertaken to enable the City to fulfil its functions.

#### 6.2 Approval for Public Consultation

Given the prohibition under Part 6.1 of this policy, the Council should not commission or approve any public consultation where it is likely that such consultation will continue into the Caretaker Period.

Where public consultation is approved to occur during the Caretaker Period, the results of that consultation will not be reported to the Council until after the Caretaker Period, except where otherwise approved by the CEO or necessary for the performance of the City's functions as prescribed in the *Local Government Act 1995* or any other relevant Act.

### 7. ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS



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### 7.1 Public Events Hosted by External Bodies

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

### 7.2 City of Perth Organised Civic Events/Functions

Events and/or functions organised by the City and held during the Caretaker Period will be limited to only those that the CEO considers essential to the operation of the City, and should not in any way be associated with any issues that in the CEO's opinion, are considered relevant to, or likely to influence the outcome of, an election.

All known candidates are to be invited to civic events/functions organised by the City during the Caretaker Period.

### 7.3 Addresses by Elected Members

Excluding the Lord Mayor and Deputy Lord Mayor fulfilling their functions as prescribed by sections 2.8 and 2.9 of the *Local Government Act 1995*, respectively, Elected Members that are also candidates should not, without the prior approval of the CEO, be permitted to make speeches or addresses at events/functions organised or sponsored by the City during the Caretaker Period.

## 8. THE USE OF CITY OF PERTH RESOURCES

The City's Code of Conduct 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 - no use of employees for personal tasks or no 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 Elected Members in ways that could create a perception that they are being used for electoral purposes. In



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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 CEO.

### **9. ACCESS TO COUNCIL INFORMATION AND ASSISTANCE**

#### **9.1 Electoral Information and Assistance**

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls), monthly enrolment details, and information relevant to their election campaigns from the City administration.

Any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

#### **9.2 Media Advice**

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

#### **9.3 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 CEO. In any event, the City’s publicity during the Caretaker Period will be restricted to communicating normal City activities and initiatives.

#### **9.4 Media Attention**

Elected Members will not use or access City staff or resources to gain media attention in support of their or any other candidate’s election campaign.





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### 9.5 Election Process Enquiries

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

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