

CARETAKER POLICY

Policy Type	Council
Responsible Department	Office of the CEO
Responsible Officer	Executive Manager Strategy, Risk & Governance
Related Documents	• Elected Member Behavioural Management Policy • Elected Member Training and Development Policy • Employee Code of Conduct
Community Plan 'Towards 2050' Link	1. Community 1.5 We foster meaningful opportunities for all people to participate in community and civic life.
Date Originally Adopted	27 April 2010
Last Review Date	27 July 2026
Next Review Date	June 2031
ECM Document No.	9237218

1. PURPOSE/OBJECTIVES

- 1.1. This Policy implements the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999*.
- 1.2. This policy also deals with council's approach to holding a public meeting involving candidates for a general election under section 91B of the *Local Government (Elections) Act 1999*.

2. SCOPE

2.1. This Policy:

- Applies throughout the election period for a general election. Does not apply to supplementary elections.
- Applies to Council Members (individually and collectively) and Council staff
- Captures all 'designated decisions' and 'other significant decisions' of the Council, a committee of the Council, or a delegate of the Council.

3. DEFINITIONS

<u>Term</u>	<u>Definition</u>
Candidate	means a person who has formally nominated for a Local Government Election.
Chief Executive Officer (CEO)	means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.
Council	Means a council constituted under the <i>Local Government Act 1999</i> (the LG Act).
Council Member	means an elected member of the City of Unley Council.
Council Staff	means any person who is employed full-time, part-time, or casually by the Council who receives remuneration for their work, as well as contractors and consultants engaged in council business.
Designated decision	means decisions expressly prohibited from being made by section 91A of the <i>Local Government (Elections) Act 1999</i> (the LG(Elections) Act).
Election period	means the period commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election.
General Election	means a general election of council members held: (a) under section 5 of the <i>Local Government (Elections) Act 1999</i>; or (b) pursuant to a proclamation or notice under the <i>Local Government Act 1999</i>.
Minister	means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the <i>Local Government (Elections) Act 1999</i> .
Public meeting of candidates	means a meeting of the kind set out in section 91B(1) of the <i>Local Government (Elections) Act 1999</i> .

4. ROLES AND RESPONSIBILITIES

<u>Role</u>	<u>Responsibilities</u>
Council Members	• Responsible for the approval and adoption of this Policy (collectively) • Must comply with the requirements of this Policy (individually)
Chief Executive Officer (CEO)	• Must comply with the requirements of this Policy
Executive Manager Strategy, Risk & Governance	• Responsible for the review and application of this Policy
All Employees	• Must comply with the requirements of this Policy

5. STATEMENT

5.1. Prohibition on Designated Decisions

- 5.1.1. Council, a committee of Council, a delegate of the Council, including the Chief Executive Officer and sub-delegates of the Chief Executive Officer are prohibited from making a designated decision during an election period.
- 5.1.2. The following designated decisions are expressly prohibited by section 91A of the *LG(Elections) Act 1999*:
 - 5.1.2.1. A decision relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct.
 - 5.1.2.2. A decision to terminate the appointment of the Chief Executive Officer.
 - 5.1.2.3. A decision to enter into a contract, arrangement or understanding (other than a contract for road construction, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year, except if the decision:
 - 5.1.2.3.1. relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* (SA), or under section 298 of the LG Act;
 - 5.1.2.3.2. is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
 - 5.1.2.3.3. relates to the employment of a particular Council employee (other than the Chief Executive Officer);
 - 5.1.2.3.4. is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
 - 5.1.2.3.5. relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council.
- 5.1.3. A designated decision made by the Council during the election period without an exemption from the Minister is invalid. Council is liable to pay compensation to any person who suffers loss or damage as a result of acting in good faith in reliance on such an invalid designated decision.
- 5.1.4. Council, if faced with extraordinary circumstances, which require the making of a designated decision during an election period, may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *LG (Elections) Act 1999* and this Policy. This can only occur after Council has passed a resolution to apply for the exemption.

- 5.1.5. If the Minister chooses to grant an exemption, the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.
- 5.1.6. This Policy applies to actual decisions made during an 'election period', not the announcement or implementation of decisions made prior to the 'election period'.

5.2. Prohibition on the use of Council Resources

- 5.2.1. Council resources must not be used for the advantage of a particular candidate or group of candidates.
- 5.2.2. For clarity, neither the *LG (Elections) Act 1999* nor this Policy prohibits a council providing resources to all members of the public, which incidentally includes all candidates for election.
- 5.2.3. The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:
 - 5.2.3.1. Mobile phones
 - 5.2.3.2. Council vehicles
 - 5.2.3.3. Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (e.g. in a public library)
 - 5.2.3.4. Council-provided business cards
 - 5.2.3.5. Requests to council employees to perform tasks which would confer an advantage on a candidate or group of candidates
 - 5.2.3.6. The ability to issue invitations to council events
 - 5.2.3.7. Council travel arrangements (e.g. access to council-negotiated rates for flights, accommodation or hire cars)
 - 5.2.3.8. Access to areas that members of the public cannot access, including areas within the property of third parties (e.g. a 'Mayor's Parlour' at a suburban football oval)
 - 5.2.3.9. Councils produced promotional brochures and documents.

5.3. Event or Function Attendance

- 5.3.1. Elected Members may continue to attend events and functions staged by external bodies during an election period in their capacity as an Elected Member.
- 5.3.2. Council organised events and functions held during an election period should be limited to those that are part of the normal operations of Council, previously approved or scheduled as part of Council's ordinary business activities. During an election period, Council events and functions must remain strictly impartial.
- 5.3.3. Elected Members may make factual welcome speeches at Council organised or sponsored events and functions during an Election Period provided it is within the usual business practice of the Council, e.g. Citizenship Ceremonies.

5.4. Public Meeting of Candidates

- 5.4.1. Council will hold a public meeting of candidates in accordance with Section 91B of the *LG(Elections) Act 1999* at a time and place to be determined by Administration.

5.5. Continuing the Functions of the Council during the Caretaker Period

- 5.5.1. Nothing in this Policy prevents the Mayor, elected members and staff carrying on the business of the Council during the caretaker period.
- 5.5.2. The Chief Executive Officer will ensure as far as is practical that Council initiatives will not be launched during the caretaker period where they are deemed to conflict with the provisions of this Policy.
- 5.5.3. During the caretaker period the Mayor will continue to be Council's spokesperson in the media or at other official functions.

6. LEGISLATION

- *Local Government Act 1999*
- *Local Government (Elections) Act 1999*
- *Local Government (Elections) Regulations 2010*
- *Local Government (General Regulations) 2013*

7. AVAILABILITY OF POLICY

7.1. The Policy is available for public inspection during normal office hours at:

The Civic Centre,
181 Unley Road, Unley SA 5061.

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website www.unley.sa.gov.au.

8. DOCUMENT HISTORY

Date	Version No.	Comment
27/04/2010	Version 1	C644
28/05/2012	Version 2	C420
11/03/2014	Version 3	C1074
28/03/2018	Version 4	C1120
22/07/2019	Version 5	C0065
26/03/2019	Version 6	C1120/19
28/03/2022	Version 7	C0746/22: Review of Policy, prior to November 2022 Local Government Elections with guidance from the LGA Caretaker Guidelines
25/03/2024	Version 8	C1236/24
27/07/2026	Version 9	C0151/26