



Shire of Campaspe

Councillor Code of Conduct

Adopted by Council
17 November 2009



CODE OF CONDUCT

This code, which incorporates the statutory requirements specified for a Code of Conduct in accordance with Section 76C of the Local Government Act 1989, was adopted by resolution of the Campaspe Shire Council on 17 November 2009.

Introduction

The Campaspe Shire Council consist of the Councillors who are democratically elected by the electors of the Shire of Campaspe in accordance with the Local Government Act 1989 (the Act). Councillors are committed to working together in the best interests of the people within the municipality and to discharging their responsibilities to the best of their skill and judgement.

The role of Council is to provide leadership for good governance of the Shire of Campaspe. It includes:

- (a) acting as a representative government by taking into account the diverse needs of the local community in decision making;
- (b) providing leadership by establishing strategic objectives and monitoring their achievement;
- (c) maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;
- (d) advocating the interests of the local community to other communities and governments;
- (e) acting as a responsible partner in government by taking into account the needs of other communities;
- (f) fostering community cohesion and encouraging active participation in civic life.

Councillor Conduct Principles

Councillors endorse and agree to the following Councillor Conduct Principles specified in Sections 76B and 76BA of the Act:

- (a) In carrying out the role, Councillors will:
 - (i) act with integrity;
 - (ii) impartially exercise their responsibilities in the interests of the local community;
 - (iii) not improperly seek to confer an advantage or disadvantage on any person;
- (b) In addition, in performing the role Councillors will:
 - (i) avoid conflicts between public duties as a Councillor and personal interests and obligations;
 - (ii) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
 - (iii) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council Officers and other persons;
 - (iv) exercise reasonable care and diligence and submit to the lawful scrutiny that is appropriate to the office;
 - (v) endeavour to ensure that public resources are used prudently and solely in the public interest;
 - (vi) act lawfully and in accordance with the trust placed in Councillors as an elected representative; and
 - (vii) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Councillor Behaviours

Councillors confirm that they will adhere to the following principles of behaviour in their general conduct as Councillors:

- (a) Treating all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. This includes:
 - (i) treating members of the community with dignity and ensuring that neither offence nor embarrassment are caused;
 - (ii) treating fellow Councillors with respect, even when disagreeing with their views or decisions;
 - (iii) debating contentious issues without resorting to personal acrimony or insult;
 - (iv) ensuring punctual attendance at Council and committee meetings;
 - (v) attending all meetings of Council, except where leave has been granted to be absent, and participate in the decision making process unless prohibited from doing so;
 - (vi) acting with courtesy towards Council staff and avoiding intimidatory behaviour; and
 - (vii) in the interests of maintaining a high level of teamwork and encouraging good morale, there is no criticism of staff in public by Councillors and no criticism of Councillors by Councillors in public.
- (b) Always acting with integrity and honesty:
 - (i) being honest in all dealings with the community, with other Councillors and with Council staff;
 - (ii) always acting with impartiality and in the best interests of the community as a whole;
 - (iii) not acting in ways that may damage the Council or its ability to exercise good government;
 - (iv) exercising reasonable care and diligence in performing the functions as Councillors; and
 - (v) complying with all relevant laws, be they Federal, State or Local Laws.
- (c) Councillors recognise that they hold a position of trust and will not misuse or derive undue benefit from their positions:
 - (i) Councillors will avoid conflicts of interest and comply with the relevant provisions of the Act and this Code of Conduct relating to interests and conflicts of interest;
 - (ii) Councillors will not exercise undue influence on other Councillors, members of Council staff or members of the public to gain or attempt to gain an advantage for themselves.

Council Decision Making

Council is committed to making all decision impartially and in the best interests of the whole community and acknowledges that effective decision-making is vital to the democratic process and an essential component of good governance. Accordingly Councillors:

- (i) will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community;
- (ii) will show a willingness to listen, learn and modify views during debate, including views adopted at preliminary meetings;
- (iii) acknowledge their duty to reach the best decision for the Shire and its community transcends any obligation to any person, community groups or to political belief;
- (iv) will respect the views of the individual in the debate. However, they also accept that decisions are based on a majority vote; and
- (v) accept that no Councillor can direct another Councillor on how to vote on any decision.

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Council focuses on:

- (i) Outcomes achieved through a proper and consistent process;
- (ii) Policies rather than cases; and
- (iii) Strategic thinking rather than ad hoc decisions.

The Campaspe Shire Council makes decisions at Council meetings based on reports providing details of the strategic context, background, consultation, financial implications and other relevant information. This includes:

- (i) Briefing, Review and Strategy sessions are used to provide further explanation of reports, not to make decisions or direct a change in any staff recommendation;
- (ii) assistance is provided to Councillors (if required) to develop motions if staff recommendations are not supported;
- (iii) any questions and concerns about meeting papers are to be directed to the Chief Executive Officer or Executive Managers; and
- (iv) information provided in response to an individual Councillor question is provided to all Councillors on the following basis:
 - a. if the question was received in the presence of Councillors, then the answer is to be provided to all Councillors;
 - b. if the question pertains to a matter either under consideration by Council or likely to come to Council for consideration, then the question and answer is to be provided to all Councillors; and
 - c. in other circumstances, Council staff will respond directly to the Councillor question and make a judgment as to the relevance of distributing the question and answers to all Councillors.

Confidential Information

Councillors acknowledge that they will comply with their obligations under Section 77 in relation to confidential briefings or information (as defined under the Local Government Act) and recognise that this obligation extends to ensuring the safekeeping of confidential information.

Access to and use of Council Information

Councillors will treat Council information appropriately, by:

- (i) not using information gained by virtue of being a Councillor for any purpose other than to exercise their role as a Councillor;
- (ii) respecting the Council's policies in relation to public comments and communications with the media;
- (iii) not releasing information deemed "confidential information" in accordance with Section 77 of the Act;
- (iv) being aware that they are only entitled to access information which is relevant to a matter before the Council; and
- (v) recognising that the requirements of the Information Privacy Act 2000 regarding access, use and release of personal information also applies to Council and distributes accordingly.

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Council Resources

Council resources are to be used effectively and economically. Council resources include goods, money, intellectual property, computer, computer software, mobile phone handsets, phone lines provided by Council, fax machines, or the services of Council employees (including contractors).

Councillors will ensure:

- (i) they maintain adequate security over Council assets provided to assist them to perform their role;
- (ii) they will not use Council resources for private purposes, unless legally or properly authorised to do so, and payments made where appropriate; and
- (iii) that they will not use public funds or resources in a manner that is improper or unauthorised.

Relationships with Staff

Councillors work as part of the Council team with the Chief Executive Officer and other members of staff. There is mutual respect and understanding between Councillors and Council staff in relation to their respective roles, functions and responsibilities.

Councillors role is one of advocacy, leadership and establishment of policy rather than management and administration. The Chief Executive Officer is responsible for all staff matters.

Councillors are aware of the requirements of Section 76E of the Local Government Act and must not seek to improperly direct or influence members of Council staff in the exercise of their duties. Councillors will direct their queries to third line managers and above when specific issues or particular functions are required to be undertaken (unless contact below this level has been approved by the manager for the particular matter).

There are some instances where interaction between Councillors and staff below third line management ("junior officers") occur, predominantly at community meetings. The protocols that should be observed in these instances are:

- (i) If the Councillor is Council's appointed representative on the committee: contact with junior officers may occur around matters related to operations within the scope of the committee. This may be at the meeting but also at other times so long as the discussions and actions relate to the scope of the committee in question;
- (ii) If the junior officer attends the meeting in a private capacity: matters related to Council business will not be discussed. The standard contact protocols should be observed; and
- (iii) Other meetings a junior officer is attending in the course of fulfilling their organisational duties: Councillors must not seek to intervene in the officers duties at such meetings. Subsequent contact at other times, with respect to the committee or its actions, requires express permission from a manager as per standard protocols. This includes District Planning Groups.

Gifts

Councillors may only receive gifts in line with Policy 123: Corporate Gifts and Hospitality.

Communication

As representatives of the community, Councillors have a primary responsibility to be responsive to community views and to adequately communicate the attitudes and decisions of Council.

Councillors will endeavour to ensure that the messages communicated through the media are clear and consistent, and positively portray the Council as a decisive and responsible governing body.

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Councillors interaction with the media will be in accordance with the Policy 55: Media Relations Policy.

Individual Councillors are entitled to express independent views through the media, however if this occurs, they will make it clear that any unofficial comment is a personal view and does not represent the position of Council as a whole.

Conflict of Interest Procedures

The Council is committed to making all decisions impartially and in the best interests of the whole community. It therefore recognises the importance of fully observing the requirements of the Act in regard to the disclosure of interests and conflicts of interest.

For the purpose of this Code, "direct interests", "indirect interests" and "conflicts of interest" have the meanings specified in the Act.

Councillors will comply with all provisions of the Act in regards to Conflict of Interest:

- (i) if a Councillor considers they have a direct or indirect interest in a matter before Council, a Special Committee of Council or an Assembly of Councillors, they have a conflict of interest;
- (ii) if a Councillor has a conflict of interest in a matter they will comply with the requirements of the Act and ensure they disclose the class and nature of the interest and leave the room in which the meeting or assembly is being held during any discussion, debate and vote on the matter; and
- (iii) if a Councillor has a personal interest in a matter to be considered by the Council or Special Committee of Council that is not a conflict of interest, and the Councillor considers that their personal interest may be in conflict with their public duty to act impartially and in the interest of the whole community, the Councillor will declare a conflicting personal interest under Section 79B of the Act immediately before the matter is considered at the relevant meeting and apply to the Council or special committee to be exempted from voting on the matter.

In addition to the requirements of the Act:

- (i) Councillors will give early consideration to each matter to be considered by the Council, Special Committee of Council of which the Councillor is a member, or Assembly of Councillors, to ascertain if they have an interest or a conflict of interest;
- (ii) Councillors recognise that the legal onus to determine whether a conflict of interest exists rests entirely with each individual Councillor. If a Councillor cannot confidently say that he or she does not have a conflict of interest, the Councillor will declare a possible conflict of interest and comply with the relevant requirements as if they had a conflict of interest; and
- (iii) if the Councillor considers that they may be unable to vote on a matter because of a conflict of interest, they will notify, as soon as possible, the Mayor or the Committee Chair, depending on whether the matter is to be considered by the Council, a Special Committee, or an Assembly of Councillors, as well as the Chief Executive Officer (or the designated officer);

If a Councillor is not attending a meeting, they must still remain aware of the Conflict of Interest provisions:

- (i) If a Councillor has a conflict of interest in a matter and does not intend to be present at the meeting, they will disclose the class and nature of the conflict of interest to the Chief Executive Officer, the Chairperson of the Special Committee, or the Assembly of Councillors, before the meeting is held. This disclosure will be in writing.

The Chief Executive Officer will ensure that all interests declared at or before a Council meeting are recorded in the minutes of the meeting.

Dispute Resolution Procedures

Before commencing any formal dispute resolution process the Councillors who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

This dispute resolution procedure is intended to be used when Councillors have been unable to resolve a conflict and where the situation is unduly affecting the operation of the Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and Special Committee of Council meetings.

In most instances, differences between Councillors are allegations of a breach of the Code of Conduct.

A "dispute" will be considered to be declared if the Council resolves that its operation is being impeded because of a dispute between some or all of the Councillors. The resolution will state the reasons why public resources should be allocated to resolve the dispute.

If the Chief Executive Officer receives advice in writing from one or more Councillors that they are unable to effectively perform their role because of a dispute between Councillors and that attempts to resolve the dispute have not been effective, the Chief Executive Officer will bring the matter to the Council's attention and the Council may resolve that a dispute be declared.

If a dispute is declared, Council will, as soon as is feasible:

- (i) appoint an independent and suitably qualified investigator, nominated by the Chief Executive Officer, from a pre appointed panel on investigators. The appointed investigator will be agreed on by the parties to the dispute.
- (ii) failing agreement, decide to seek advice from the Municipal Association of Victoria or another appropriate external organisation to identify a suitably qualified investigator;

The Council may only decide that a mediator or conciliator will not be appointed if the dispute is limited to matters of policy and decision making.

- (i) Irrespective of the above, the Council will not undertake a dispute resolution procedure if it appears that the procedure is likely to overlap with an election period for a Council election.
- (ii) If an investigator is appointed, all Councillors will cooperate with the dispute resolution process and provide reasonable assistance to the investigator when requested.
- (iii) At the conclusion of the investigation, a report will be presented to Council to determine a course of action.

In the event that a dispute cannot be resolved through application of these processes, it may be referred to a Councillor Conduct Panel.

If the dispute relates to an apparent offence under the Local Government Act it should be referred to the Minister for Local Government and not be the subject of an application to a Councillor Conduct Panel.

At the conclusion of the dispute resolution process, the Council will consider a report in a meeting open to the public that includes:

- (i) an independent report from the mediator or conciliator (except where the independent report must be considered in a closed meeting);
- (ii) the recommendations of the mediator or conciliator;
- (iii) the actions being taken as a consequence of the dispute resolution process; and
- (iv) an estimate of the full cost to the Council of conducting the mediation process.

Statement of Caretaker Procedures

Council will adopt Election Period – Caretaker Procedures before each general election of Council. The most recent version of these procedures is attached as Appendix A. The purpose of Council's Caretaker Procedures is to ensure that the ordinary business of local government in the Campaspe Shire Council continues throughout an election period in a responsible and transparent manner, and in accordance with statutory requirements and established "caretaker" conventions. These procedures commit Council during the caretaker period to:

- avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

Appendix A contains the legislative requirements associated with caretaker periods.

Other Relevant Policies

The following policies and procedures that relate to conduct apply to Councillors as well as staff:

- Media Policy
- Equal Opportunity Policy
- Respect in the Workplace Policy
- Whistleblower Protection Act Procedures.

Breaches of the Code

It is the responsibility of all Councillors to comply with this code. Depending on the nature of the breach sanctions may include counselling, disciplinary action or the laying of criminal charges (in the case of breaches of legislative requirements).

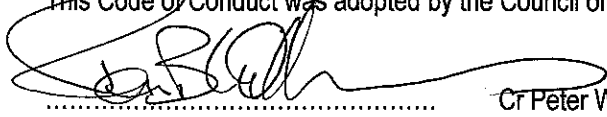
A breach of this Code should immediately be reported to the Chief Executive Officer (if the complainant is a staff member) or the Mayor (if the complainant is a Councillor) who will determine the course of action to be taken. If the Mayor is the subject of the complaint, the complaint shall be directed to the CEO. The principles of natural justice will be observed, and the person to whom the information relates will be given full details and a reasonable opportunity to respond.




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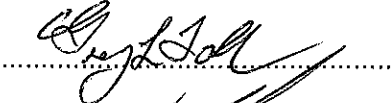
Endorsement


This Code of Conduct was adopted by the Council on 17 November 2009 and is signed by the following Councillors.

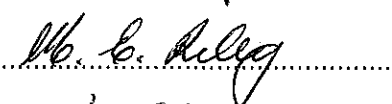

..... Cr Peter Williams

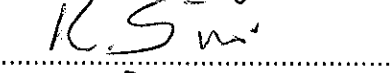

..... Cr Carol Howell

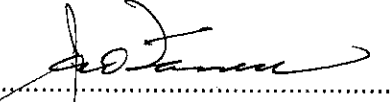

..... Cr Neil Pankhurst



..... Cr Greg Toll


..... Cr Neil Repacholi


..... Cr Marion Riley


..... Cr Kevin Simpson


..... Cr Judith O'Farrell


..... Cr Frank Oliver

REVIEW PERIOD

One Year

RESPONSIBLE OFFICER

Commercial and Corporate Executive Manager

Appendix A

STATEMENT OF CARETAKER PROCEDURES

The Council is committed to fair and democratic elections and therefore adopts and endorses the following practices and legislative requirements.

This Statement of Caretaker Procedures is in two parts, addressing two fundamental policy principles:

- (a) Council Decision Making; and
- (b) use of Council Resources.

Decisions in Caretaker Mode

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind the incoming Council.

This includes a commitment to comply with the requirements of Section 93A of the Local Government Act 1989 (the Act), relating to "Major Policy Decisions", as well as with the policies specified below in relation to "Significant Decisions".

Major Policy Decisions

Section 93A of the Act specifies decisions that may not be made by a Council during an election period unless an exemption is granted by the Minister.

Section 93A of the Act prohibits the making of "Major Policy Decisions" during the election period, which is from Entitlement day until 6:00 pm on the Election Day.

"Major Policy" decisions are defined by the Act to be decisions:

- 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;
- to terminate the appointment of a Chief Executive Officer under Section 94;
- to enter into a contract 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; or
- 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 in the preceding financial year.

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council will, by resolution, request an exemption from the Minister for Local Government, in accordance with Section 93A(2).

Significant Decisions

In addition to the decisions specified in Section 93A of the Act, the Council will avoid making other decisions during the election period that are of a significant nature and which would unnecessarily bind an incoming Council.

"Significant Decisions" include:

- irrevocable decisions that commit the Council to substantial expenditure or significant actions; and
- irrevocable decisions that will have a significant impact on the municipality or the community.

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The Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. Therefore, where a delay in making a "significant decision" would result in significant detriment to the local community, or the broader community, the Council may make an exception to this procedure. In making an exception to this procedure, the Council will deal with the matter impartially, having regard to the long term interests of the community and as transparently as possible.

Caretaker Statement

In order to assist the Council with its commitment to appropriate decision making during the election period, the Chief Executive Officer will ensure that a "Caretaker Statement" is included in every report submitted to the Council or to a Special Committee of Council for a decision.

The "Caretaker Statement" will describe the caretaker status of each item, specifically indicating whether or not the proposed decision if it is a Major Policy Decision or Significant Decision and whether any required Ministerial exemption has been obtained.

This type of procedure assists Councillors and serves as a reminder to the community that the Council is taking its caretaker responsibilities seriously.

Use of Council Resources during Election

Council resources should not be used for partisan electoral purposes.

Media and Publicity

Section 55D of the Act prohibits Councils from printing, publishing or distributing electoral matter unless it is only about the election process.

Publications

- Pamphlets, brochures, and newsletters relating to Council services / facilities / programs / projects will be reviewed, for material which may be construed as electoral matter. If these publications are found to contain electoral matter they will be withdrawn from display/distribution during the election period.
- The Annual Report will be produced to meet legislative requirements without reference to any electoral matter.

Website

- Council's website will be scrutinised by the Chief Executive Officer, during the election period. Councillor profiles will be modified – names, contact details and Council appointments will remain but information that could be construed as individual Councillor Policy statements will be removed for the election period. Other material on the website or links to material that might be considered as electoral matter will be reviewed. New material will be scrutinised by the Chief Executive Officer before publication while historical material will generally remain.

Media

- Media releases and advertisements during the election period will focus on Council activities and services and will not contain electoral matter.

Councillors

- Election Period Caretaker Procedures do not restrict the ability of Councillors to issue media releases or make media comment in their own name and using their own resources.

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council's communication resources to enable them to fulfill their elected roles. However they will not be developed or used in support of a candidate's election campaign.

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During the election period as defined:

- A Council employee must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be made in accordance with the Media Liaison Procedure.
- Council publicity and communications will be restricted to promoting normal Council activities and services and for informing residents about the conduct of the election.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention specifically in support of an election campaign."
- Ward meetings and newsletters are not to be arranged by Council during the election period.
- Council logos or letterheads, Shire of Campaspe branding or Council provided photographs will not be used by Councillors in any way that relates to an election.

Council Equipment and Facilities

Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes. Where Councillors have Council funded services, such as mobile phones, land and ADSL lines, facsimile machines, printer/scanner and photocopier machines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for usage of those services during the election period in accordance with the Councillors Expenses Entitlements Policy.

Councillor Expenses

Reimbursement of Councillors' out-of-pocket expenses during the Pre-Election caretaker period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses supporting or connected with a candidate's election campaign.

Other Caretaker Matters

Council recognises that all election candidates have rights to information. However, it is important that sitting Councillors continue to receive information that is necessary to fulfill their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and transparency will be observed and practised 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 policies and services.

All such requests are to be issued through an Information Request Register which will contain the details of requests made and advice provided and is a public document. Such information will not relate to new policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign. Only information that can be reasonably accessed will be released.

All requests for information are to be directed to the Administration Manager.

Role of Council Staff

The Secretary to the Mayor and Councillors and Staff will not be asked to undertake any tasks connected directly or indirectly with a councillor candidate's election campaign.

Ward Allocations

Councillors are not to make Ward Allocations during the Election Period.

Politicisation of Meetings

During the election period, further to any Major Policy Decisions there is to be no Council policy formation or adoption, no censure of government departments or Ministers and Notices of Motions and General Business are not to be of a political nature.

Other Resources

1. The Council will ensure other Council resources are not used inappropriately in ways that may influence voting in an election or provide an undue advantage for a candidate. This includes financial, human and material resources.
2. Prior to the election period for any election the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application of the caretaker procedures:
 - (a) Council staff will not undertake an activity that may affect voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer; and
 - (b) Council staff will not authorise, use or allocate a council resource for any purpose that may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
3. Any staff member who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate should advise their manager before authorising, using or allocating the resource. The manager will seek appropriate advice in order to ascertain whether the use of Council resources is in accordance with this statement.
4. In applying these principles, the Council understands that the following will be normal practice during election periods:
 - (a) public events will only be organised and run by Council if they are part of the normal services or operation of Council;
 - (b) speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication;
 - (c) media services, including media releases, will not be provided for Councillors by the administration during the election period;
 - (d) Councillor Newsletters will not be resourced by Council in any way during the election period; and
 - (e) neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.