

## Election Caretaker Policy

This information bulletin follows a review by the Local Government Investigations and Compliance Inspectorate (Inspectorate) of election caretaker arrangements at all 79 Victorian local councils. It aims to provide good practice examples and preparation advice in the lead up to the 27 October 2012 election.

### Background

The election caretaker period for Victorian local councils (except Brimbank City Council whose election will be held in 2015) commences at midnight on 25 September 2012. In preparation for this, the Inspectorate conducted a review of all 79 council's election caretaker arrangements and policies.

Of the 79 councils, 74 demonstrated they had a current election caretaker policy in place. Further analysis identified that eight councils had comprehensive, detailed policies that captured the necessary requirements of the [Local Government Act 1989](#) (Act), whilst the others were deemed to be either satisfactory or requiring further content.

The Inspectorate has provided councils without an election caretaker policy with good practice examples to assist in the development of a policy before the caretaker period commences.

Check your council policy against the information in this bulletin and the good practice examples provided.

### What makes a good policy?

A good election caretaker policy will need to cover **all** relevant sections of the Act, specifically and explicitly relating them to council practices.

The statutory requirements during the election caretaker period are outlined in sections 55D, Prohibition on Council, and 93A, Conduct of Council during election period, of the Act. It is also considered better practice to include section 76D of the Act, Misuse of Position.

Councillors, council and candidates need to be aware of the caretaker requirements. Breaches of the Act may incur penalties.

### Why is good policy important?

While it is not a statutory requirement to have an election caretaker policy, the adoption of one is good practice; it enables councils, councillors and candidates to understand their requirements and obligations, and it demonstrates the council's commitment to probity in its elections, boosting community confidence and trust in council. It also allows councils to address matters that may not be explicitly captured in the Act and, when followed, will mitigate the likelihood of any breaches of the Act.

### What was missing?

The Inspectorate's analysis of election caretaker policies across Victoria revealed some areas for improvement and key points not covered in a high number of council policies.

#### Misuse of Position

The Inspectorate's analysis showed that 63% of policies did not cover section 76D, Misuse of Position. It's important to include this section of the Act in an election caretaker policy to ensure a fair election is held where council resources are not used for campaigning by sitting councillors to increase advantage over other candidates or to influence voters.

Councillors cannot use their current position to gain access to information or

resources that would otherwise not be available. Councillors and candidates must be given equal access to support and information.

The penalty for Misuse of Position is 600 penalty units or imprisonment, or both.

### **Ward Funds**

The Inspectorate found that 93% of election caretaker policies did not cover ward funds or Councillor discretionary funds. If ward funds are still in use at your council, allocation of funds during the election caretaker period should not be permitted. It's important this is clearly articulated within the policy. Allocation of ward funds during the caretaker period may be investigated by the Inspectorate.

### **Social Media**

Social media parameters were not covered in 45% of council election caretaker policies. Of those that did include social media, only 27% provided comprehensive information; 14% covered social media to a satisfactory level; and 14% only included a cursory note.

Section 55D applies to all communication mediums including social media, so it's important that a framework for this fast moving, two-way communication tool is included in an election caretaker policy. In the same way that councils cannot print any advertisement or notice without certification in writing by the CEO, councils cannot publish any notice on social media without certification in writing by the CEO.

Social media includes, but is not limited to:

- Facebook
- Twitter
- YouTube
- Flickr
- LinkedIn
- Pinterest

Any matter that exists on social media pages that could be viewed as electoral matter should be removed including YouTube videos or photos of councillors at publicity events, as is done with councillor profiles on council websites. Where possible, it is recommended that the public's ability to post comments on social media pages is disabled for the duration of the caretaker period.

### **Timeframes**

It's recommended that councils specify the timeframe the caretaker period covers. Currently 55% of policies include the

specific dates. Including dates in the policy will mean they will need to be reviewed and updated every four years in the lead up to elections; however, this will lead to continuous improvement and good practice policies.

### **Accessibility**

Having a good quality policy is important. Making sure it's accessible is equally as important. The policy should be accessible to all council staff and councillors so they understand their responsibilities; but it should also be available to candidates and the community.

Only 35% of councils have their policy available to the community and candidates via websites. This means that almost two thirds of councils do not.

A publicly available document will ensure candidates understand their rights and the expectations of councillors. It will also boost community confidence in a fair and transparent council and election process.

### **Good practice examples online**

Election caretaker policies from [Maroondah City Council](#), [Frankston City Council](#), [Baw Baw Shire Council](#) and [Port Phillip City Council](#) are examples of comprehensive, good practice policies. With permission of the councils, these have been published on the Inspectorate webpage to assist all Victorian local councils develop or improve their own policies.

### **Further information**

The Inspectorate is always available to assist councils to develop effective processes and can provide advice to ensure all requirements under the Act are being fulfilled.

[Local Government Victoria](#) can also provide advice to councils.

For any further advice or information, please contact the Inspectorate on 9665 9555 or go to [www.dpcd.vic.gov.au/inspectorate](http://www.dpcd.vic.gov.au/inspectorate).