

	Guidelines	Version:	4
	Caretaker	Date Adopted:	14 April 2026
		Next Review Due:	April 2030

These Guidelines relate to the Caretaker Policy.

1. INTRODUCTION

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the council and its staff during the election period for a Local Government general election.

These Caretaker Guidelines are a supplement to Council's Caretaker Policy and provide more detailed information about the legislative requirements Council must comply with under the caretaker provisions of the Elections Act.

2. DEFINITIONS

The definitions in the Caretaker Policy have the same meaning in these Guidelines.

3. OVERVIEW

In accordance with section 91A(2) of the Elections Act, a Council's caretaker policy must at a minimum prohibit, during an election period, the making of a designated decision and the use of Council resources for the advantage of a particular candidate or group of candidates.

In considering how the policy applies to the prohibition on making designated decisions, regard must be had to three separate elements. The decision must be:

- a) a decision of the Council
- b) made during an election period; and
- c) a designated decision.

Each of these elements is described below.

3.1 Decision of the Council

Section 91A of the Elections Act only applies to a decision of the Council. This will include decisions made directly by the Council or indirectly through a Council committee or delegate. A delegate may be the CEO or the CEO's nominee or another senior member of Council.

A personal decision of a Council Member, or a Council employee who is not acting under a delegation, is not a decision of a Council and, consequently, cannot be a designated decision for the purposes of section 91A of the Elections Act.

3.2 Election Period

Section 91A of the Elections Act prohibits a Council from making designated decisions during an election period. The use of Council resources for the advantage of a particular candidate or group of candidates is also prohibited unless an exemption has been granted by the Minister.

An election period¹:

- a) commences on either:
 - i. the day on which nominations for a General Election close; or
 - ii. if a Council's Caretaker Policy specifies an earlier date, that date; and

¹ Refer to section 91(A)(8) of the Local Government (Elections) Act.

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- b) expires at the conclusion of the General Election.

A decision which is made prior to the election period, but announced during the election period, will not be a designated decision for the purposes of section 91A of the Elections Act.

The Council may apply in writing to the Minister for an exemption from the application of section 91A of the Elections Act to a designated decision.

3.3 Public Meeting Provisions of Elections Act

Section 91B(1) of the Elections Act requires a Council during the period commencing after the close of nominations and before polling day for a General Election to hold at least one meeting of candidates who wish to participate and members of the public. The public meeting is to discuss community issues relevant to the election and for candidates to inform members of the public about their policies and views.

Notwithstanding the provisions of section 91B(1), a Council may determine not to hold a public meeting of candidates. If a Council makes this decision, its Caretaker Policy must include a statement to this effect that is certified by the Mayor. The requirements of section 91B of the Elections Act are discussed at section 8 of these Guidelines.

4. DESIGNATED DECISIONS

Only specific types of decision will be designated decisions under section 91A Elections Act. These are outlined below.

The Elections Act stipulates that any designated decision made by a Council during an election period is invalid unless it has a Ministerial exemption.

Any person who suffers loss or damage as a result of acting in good faith on a designated decision made in contravention of section 91A of the Elections Act is entitled to compensation from the Council for that loss or damage.

4.1 Decisions Relating to the Employment of the CEO

Any decision relating to the employment, remuneration or termination² of the CEO, other than a decision to:

- a) appoint an acting CEO, or
- b) suspend a CEO for serious and wilful misconduct³

will be a designated decision.

4.2 Specific Contracting Decisions

Certain Council decisions regarding specific types of contracts made during an election period will be designated decisions.

Generally, a decision to enter into a contract, arrangement or understanding (other than a prescribed 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 year⁴ will be a designated decision. However, there are exclusions from this general position provided in section 91A of the Elections Act and the Local Government (Elections) Regulations.

² Refer to section 91(A)(8) of the Local Government (Elections) Act 1999

³ Refer to regulation 17(1)(b) of the Local Government (Elections) Regulations 2025

⁴ Refer to section 91(A)(8) of the Local Government (Elections) Act.

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4.2.1 Prescribed Contracts

Prescribed contracts are expressly excluded from the types of contracts that are able to be the subject of a designed decision. A 'prescribed contract' is defined in section 91A of the Elections Act to mean a contract entered into by a Council for the purpose of undertaking road construction, road maintenance or drainage works.

The prescribed contracts exemption allows Council to continue its core road and drainage infrastructure works unaffected by the caretaker period.

4.2.2 Exemptions

Other types of contracting decisions are excluded from being the subject of a designated decision by the Local Government (Elections) Regulations. These are decisions:

- relating to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* or under section 298 of the Local Government Act
- for 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
- relating to the employment of a particular Council employee (other than the CEO)
- 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
- relating to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council.

5. PROHIBITION ON THE USE OF COUNCIL RESOURCES

5.1 Scope of Prohibition

A Council's caretaker policy must prohibit the use of Council resources for the advantage of a particular candidate or group of candidates during an election period. A caretaker policy may however allow the equal use of resources by all candidates for the election.

The prohibition does not prevent all candidates, including current Council members, utilising Council resources that are available to all members of the public.

Examples include a candidate using a Council library computer to design election campaign material and produce copies for distribution on a Council photocopier (that is available to the general public). Candidates should not be given access to council facilities that are not available to all other candidates.

There are constraints on the personal use of Council resources under the Local Government Act and the Behavioural Standards for Council Members. These are discussed in section 5.5 of these Guidelines.

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5.2 What are 'Council Resources'?

'Council resources' is a broad concept which is undefined in the Elections Act. A general definition of the term 'resources' provided in the Macquarie Dictionary is 'the collective wealth and assets of a country, organisation, individual'. Applying this definition, any asset or information owned or controlled by a Council is a 'Council resource'.

Council resources may include:

- a) materials published by Council
- b) facilities and goods owned by the Council
- c) attendance and participation at functions and events
- d) access to Council information, and
- e) media services.

Council staff and contractors engaged by a Council are also Council resources.

5.3 Meaning of 'advantage'

The concept of 'advantage' is broad and is defined in the Macquarie Dictionary as 'any state, circumstance, opportunity, or means especially favourable to success, interest, or any desired end'. In the context of section 91A of the Elections Act, the relevant advantage is in respect of being elected or re-elected.

An advantage will be conferred where a decision allowing the use of Council resources favours one candidate over another. An advantage arises when a candidate utilises resources, information or support that is not available to a candidate in an election who is not an existing Council Member.

The Ombudsman has given 'advantage' a broad interpretation. The Ombudsman's view is that any activity that gives a perception of favouring one candidate over another is an advantage. Whether the scope of the 'advantage' under section 91A of the Elections Act extends to a perceived advantage is likely to be a matter for debate. Council should, however, be aware of this view when making decisions during an election period.

5.4 Normal Council Business or Campaigning?

There is no relevant advantage where Council resources are used exclusively for normal Council business during an election period and are not used in connection with a candidate's election campaign.

Examples of Council resources that, if used during the election period for campaign purposes, or purposes that would otherwise provide a genuine advantage to the candidate, which would contravene a Council Caretaker Policy include:

- (a) mobile phones
- (b) Council vehicles
- (c) Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (e.g. in public library)
- (d) Council-provided business cards
- (e) requests to Council employees to perform tasks
- (f) the ability to issue invitations to Council events

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- (g) Council travel arrangements (e.g. access to Council-negotiated rates for flights, accommodation or hire cars)
- (h) access to areas/facilities that members of the public cannot access, including areas within the property of third parties (e.g. Mayor's Parlour at a suburban football oval)
- (i) Council's printed materials (e.g. brochures or other documents).

It is reasonable for Councils to continue to provide resources where these are necessary for a Council Member to perform their duties as a Council Member, provided these resources are not used to advantage a candidate or group of candidates. For example:

- (a) access to Council facilities for the purpose of a Council meeting. This may include refreshments, if usually provided as an adjunct to Council meetings
- (b) access to a secure area of the Council website, where Council agendas, minutes and other Council documents can be obtained.

Where Council Members are standing for re-election, Council should consider whether the continued provision of Council resources during the election period will provide an advantage to existing Council Members in their election campaign.

Reasonable minds are likely to differ over whether the use of Council resources will advantage particular candidates. Due propriety and appropriate judgement should be exercised in making decisions to use Council resources during election periods to ensure that the Council and its Members are not left open to criticism.

5.5 Use of Council Resources for Personal Benefit

The use of Council resources for personal benefit is distinct from a designated decision of a Council regarding the use of Council resources for the advantage of a particular candidate or group of candidates.

The use of Council resources for personal benefit is regulated by legislation other than section 91A of the Elections Act. The use of Council resources by a Council Member for the purposes of an election campaign will be a use of those resources for personal benefit. Council Members standing for re-election to Council must take care that they only use Council resources for normal Council business and not to assist them in campaigning.

The Member integrity provisions in section 62 of the Local Government Act include offences for improper use of information or position to gain personal advantage for the Council Member or another person.

Section 78 of the Local Government Act deals with the use of Council resource by Council Members. Section 78(3) states that:

A member of a council must not use a facility or service provided by the council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the council and the member has agreed to reimburse the council for any additional costs or expenses associated with this use).

The use of Council resources for personal benefit in breach of these requirements could be corruption or misconduct for the purpose of the *Independent Commission Against Corruption Act 2012* and be the subject of a complaint to the Office of Public Integrity (OPI) or the South Australian Ombudsman.

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Conduct of a public officer, which includes Council Members, that results in a substantial mismanagement of public resources may also be the subject of a complaint to the South Australian Ombudsman.

Disciplinary consequences or prosecutions may ultimately result from the unauthorised use of Council resources for private purposes.

5.6 Specific Council Resource Scenarios

The business of a Council does not cease during an election period. Council resources will continue to be used during the election period.

There is a distinction between the use of Council resources in the ordinary course of Council operations and the use of Council resources by a candidate or group of candidates for campaigning purposes. Where resources are used for campaign purposes, this will be the use of Council resources for personal benefit.

During an election period, Council Members and Council staff must take care that Council resources are not used for the purpose of election campaigning. Some specific scenarios are discussed below where this issue may arise.

5.6.1 Council Publications During an Election Period

The publication by a Council of information for the advantage of a particular candidate or group of candidates (other than a decision which allows for the equal use of Council resources by all candidates for election) is prohibited by section 91A of the Elections Act. Publishing includes publication by any medium, including but not limited to leaflets, newspapers, posters, email, websites, radio or television. This does not include, however, the publication of information, a media release or content by the Mayor if this would form part of the normal business of Council.

Council has a statutory responsibility to publish certain information regarding General Elections. Under section 12(b) of the Elections Act, each Council is responsible for the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area and to advise its local community about the outcome of the elections and polls conducted in its area.

All election materials published by a Council should fall within the types of material described in section 12(b) of the Elections Act and not contain any material that would advantage a particular candidate or candidates.

'Electoral material' is defined in the Elections Act as 'an advertisement, notice, statement or representation calculated to affect the result of an election or poll'. Given that the purpose of electoral material is to persuade voters towards a particular candidate or group of candidates, it will not be appropriate for a Council to publish electoral material.

Council may publish other material during an election period. The material published during this period should reflect ordinary Council business and the usual activity of the Council should there not have been an election occurring. If Council is considering making a decision to publish material during the election period, the Council should consider whether or not the material would confer an advantage on a particular candidate or group of candidates for election. If an advantage would be conferred then the material should not be published or distributed.

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Where a Council publication made in the ordinary course of Council operations would be published during an election period, consideration must be given to the contents of these publications to ensure that Council and Council Members cannot be criticised for publishing material that may assist or hinder the electoral prospects of particular candidates.

Council Members are able to publish electoral material on their own behalf (provided that they comply with sections 27 and 28 of the Elections Act). Council Members should not assert or imply that the electoral material originates from or is endorsed by Council. A Council Member must also not use Council resources to create or distribute his/her electoral material, including through the use of Council stationary, computers, printers, photocopiers, Council staff or the application of the Council's logos.

5.6.2 Attendance at Events and Functions

Events and functions can take many forms including conferences, workshops, forums, launches, promotional activities, and social occasions (such as dinners, receptions and ceremonies).

Council Members can continue to attend events and functions in their capacity as a Council Member during an election period provided their attendance is consistent with the ordinary course of the Council Member's duties and is not used for campaigning.

Council Members should consider whether or not their attendance at an event or function is likely to be viewed as campaigning. In part, this may depend on the conduct of the Council Member while in attendance at the event or function. Care should particularly be taken by Council Members if they are asked to give a speech at an event or function during an election period.

Council Members, including the Mayor, should not give speeches or keynote addresses at Council organised or sponsored events during an election period. The Mayor or Council Members may, however, make short welcoming remarks at Council organised or sponsored events during an election period.

5.6.3 Access to Council Information

Section 61 of the Local Government Act provides Council Members with a right to access Council documents in connection with the performance or discharge of their functions or duties of the member. This right of access continues during an election period.

Council Members should take care that access to Council documents is in connection with the performance or discharge of their functions or duties as a Council Member. Access to Council documents for the purpose of campaigning or to gain an advantage in an election is an improper use of information gained by virtue of the Council Member's position as a member of Council.

5.6.4 Media Services

Council's media services should only be used to promote Council activities or initiatives or community activities or initiatives which are endorsed or otherwise supported by Council. They must not be used in any manner that might favour a particular candidate or candidates during an election period.

Media services will, during the election period, be used in the ordinary course of Council operations and will continue in accordance with standard protocols. Care should be taken

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to ensure that Council's media services are not used to advantage a particular Council Member in his or her re-election campaign (e.g. by profiling that member or activities which are closely associated with that Council Member).

Council Members should not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign. To do so, would contravene section 62(4) of the *Local Government Act 1999* which prohibits a Council Member improperly using their position as a Council member to gain, directly or indirectly, an advantage for themselves or for another person.

5.6.5 Public Consultation during an Election Period

Public consultation must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period, however consideration should be given prior to the consultation being scheduled as to whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates then it would be prudent to delay the consultation until after the election period.

5.6.6 Expenses Incurred by Council Members

Payment or reimbursement of costs relating to Council Members' out-of-pocket expenses incurred during an election period will only apply to necessary costs that have been incurred in the performance of normal Council duties. This is consistent with the requirements applying to the reimbursement of Council Members under section 77 of the Local Government Act.

No reimbursements should be provided for campaign expenses or for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

5.6.7 Council Branding and Stationary

Council should not endorse particular candidates for election. Council logos, letterheads, or other Council branding or Council resources or facilities should not be used for a candidate's election campaign.

The Mayoral letterhead is exempt from this clause in circumstances where the Mayor is using the letterhead in the performance of his/her ordinary functions and duties of office.

5.6.8 Support Staff to Council Members

Council staff who provide support to Council Members should not be asked to undertake any tasks connected directly or indirectly with an election campaign for a Council Member, except where similar support is provided to all candidates.

5.6.9 Equipment and facilities

Council resources such as Council computers, stationary and business cards can continue to be used by Council Members during an election period for normal Council business. For example, use of a Council provided device to receive and read an electronic copy of the Council meeting agenda and use of the device during the Council meeting. Council resources should not be used for campaign purposes, for example, use of a Council

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provided email address and device to send and receive emails canvassing electoral support, as this will contravene the Local Government Act and the Behavioural Standards for Council Members.

6. COUNCIL STAFF ACTIVITIES DURING AN ELECTION PERIOD

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity relates to the election process and is authorised by the CEO.

Council staff should not authorise, use or allocate a Council resource for any purpose which may influence voting in the election, except where it is required to facilitate a fair election process and is authorised by the CEO. This includes making Council resources available to Council Members for campaign purposes.

Council staff must not assist a Council Member or other candidate/s with their election campaign at any time, including outside working hours. Whilst it is not illegal for Council staff to assist a Council member or other candidate/s with their election campaign in their own time, such campaign assistance creates reputational risks for the staff member, the candidate, the Council and for the integrity of the election process.

Where the use of Council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

All Council staff must also comply with the mandatory reporting directions and guidelines issued by the Director of Office Public Integrity under 18B Independent Commission Against Corruption Act.

7. EQUITY OF ASSISTANCE TO CANDIDATES

7.1 Candidate Assistance and Advice

Council should not favour a candidate or group of candidates for election over other candidates.

Any assistance or advice provided to candidates as part of the conduct of an election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated transparently to all candidates in advance.

7.2 Election Process Enquiries

All election process enquiries from candidates, whether current Council Members or not, are to be directed to the Electoral Commissioner as the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the CEO or nominee.

8. PUBLIC MEETING OF CANDIDATES

8.1 Holding a Public Meeting of Candidates

The default position under the Elections Act is that a public meeting of candidates is to be held for each General Election. If a Council proposes to hold a public meeting of candidates, it is not required to include a statement in its Caretaker Policy to this effect.

The purpose of the public meeting is to enable a discussion of community issues relevant to the election and for candidates to inform the public about their policies and views.

The public meeting of candidates must occur after the close of nominations and before polling day. As a minimum, a Council must hold one public meeting but it may hold additional meetings

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as it considers appropriate. All candidates in the General Election must be given the opportunity to attend the public meeting although there is no requirement that they attend.

A public meeting of candidates must be presided over by Council's CEO or a person appointed by the CEO. The person appointed by the CEO must not be a candidate in the General Election. The person presiding over the meeting is responsible for ensuring it is conducted in an orderly and efficient manner, and has the powers under section 18A of the *Summary Offences Act 1953* to deal with disorderly conduct at the meeting.

The Elections Act does not prescribe any minimum requirements for a public meeting of candidates. Councils should therefore determine the format, agenda, timing (within the legislated period), and location of the meeting/s. Council should also ensure that all candidates have the opportunity to attend the public meeting. Issues of equity, fairness and convenience need to be considered by Council.

A public meeting of candidates may be held remotely using audio visual technology or any other means of communication determined appropriate by Council. Candidates and members of the public are not required to be physically present at the meeting.

8.2 Not Holding a Public Meeting of Candidates

The requirement to hold a public meeting of candidates does not apply if the Council's Caretaker Policy:

- provides that a public meeting of candidates will not be held for General Elections, and
- includes a statement certified by the Mayor setting out Council's reasons for not holding a public meeting.

It is a policy decision of individual Councils whether to hold a public meeting of candidates. Councils that elect not to hold a public meeting of candidates must adopt a Caretaker Policy that specifically complies with the above requirements.

The Elections Act does not specify any basis upon which a Council may determine not to hold a public meeting of candidates and it is therefore for individual Councils to determine their reasons and include them in the Caretaker Policy. Appendix 1 shows the format of the declaration that needs to be included in the Caretaker Policy and provides examples of possible reasons why a Council would not want to hold a public meeting.

9. REVIEW

These Guidelines are scheduled for review by Council in April 2030.

10. AVAILABILITY

The Guidelines are publicly available on Council's website: www.wattlerange.sa.gov.au.

A printed copy may be purchased from Council offices upon payment of the relevant fee in Council's Fees and Charges Schedule.

11. REFERENCES & FURTHER READING

References	• Caretaker Guidelines 2025, Local Government Association of South Australia
Relevant Legislation:	• <i>Emergency Management Act 2004</i> • <i>Independent Commission Against Corruption Act 2012</i> • <i>Local Government Act 1999</i>

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	• <i>Local Government (Elections) Act 1999</i> • <i>Local Government (Elections) Regulations 2025</i>
Relevant Policies / Procedures / Guidelines	These Guidelines should be read in conjunction with: • Caretaker Policy • Behavioural Standards for Council Members • Corporate Standards for Employees

12. ADOPTION & AMENDMENT HISTORY

The table below sets out the adoption, review and amendment history of the policy.

Version No:	Issue Date:	Authorised by:	Description of Change:	Minutes Reference:
1	8 July 2014	Council	Adopted	Folio 5611; Item 12.2.5
2	12 June 2018	Council	Adapted into new format, considered changes to LGA model guidelines	Folio 7653; Item 13.1.2
3	8 March 2022	Council	Adopted changes due to LGA reform.	Folio 9901; Item 15.2.2
4	14 April 2026	Council	Updated to include changes to Local Government (Elections) Act (s91B)	Folio 11483; Item 15.2.3

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The text below contains the wording to use if Council determines not to hold a public meeting/s of candidates for a General Election under section 91B(1) of the Elections Act. The wording has been prepared by the Local Government Association of SA.

Public Meeting of Candidates Not To Be Held

The Council has determined that a public meeting of candidates will not be held in respect of General Elections.

The Council's reason/s for not holding a public meeting of candidates [is/are]:

- [insert reason/s e.g.:
- the Council is satisfied that a meeting equivalent to a meeting of candidates is to be arranged by another person, body or group within its area]
- the Council has determined that the costs of arranging and holding a meetings of candidates outweighs the benefits of such a meeting
- the Council is satisfied that the other statutory mechanisms provided in the *Local Government (Elections) Act 1999* for informing members of the public of the issues in the community relevant to the election and of the policies and views of candidates are sufficient to allow electors to make informed decisions are the election
- the Council considers that the task of informing members of the public of the issues in the community relevant to the election and of the policies and views of candidates is best left to individual candidates rather than the Council as a body corporate
- insert other reasons.]

Certified by:[signature of Mayor]

.....**Mayor**