HOBSONS BAY CITY COUNCIL

Hobsons Bay Governance Rules

2025 Version 0.1 DRAFT

Acknowledgement of Country

We acknowledge the Bunurong People of the Kulin Nation as the Traditional Owners of the lands, rivers and coastal areas in Hobsons Bay. We recognise the First Peoples' relationship to this land and offer our respect to their Elders past and present.

DRAFT FOR CONSIDERATION

I. Nature of Rules

These are the Governance Rules of Hobsons Bay City Council, made in accordance with section 60 of the *Local Government Act 2020*.

II. Date of Commencement

These Governance Rules commence on **[insert date]**

III. Definitions

"Act" unless otherwise specified means the Local Government Act 2020

"Additional meeting" is a meeting called to conduct necessary business which is not in the annual fixed schedule of meetings

"Agenda" means the notice of a meeting setting out the business to be transacted at the meeting

"Attendance" includes physical attendance and remote attendance

"Chair" means the Chairperson of a meeting being the Mayor, Deputy Mayor, appointed chair or temporary chair as appropriate

"Chief Executive Officer" includes an Acting Chief Executive Officer

"Delegated Committee" means a Delegated Committee established under section 63 of the Act

"Quorum" is more than half the number of Councillors

"Written" includes hard copy and electronic formats

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PART A – Meeting Procedure

1. Council decision making

1.1. Fair decision making

In any matter on which a decision must be made by Council, Council must consider the matter and make the decision:

- fairly, in a manner which is balanced, ethical and impartial; and
- on its merits, having considered professional advice where provided, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.

1.2. Decisions affecting the rights of a person

Council must, when making any decision to which the principles of natural justice apply, ensure that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered.

Before making a decision that will directly affect the rights of a person, Council must identify persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such persons have an opportunity to communicate their views and have their interests considered before the decision is made.

If a report to be considered at a Council meeting or Delegated Committee meeting concerns subject matter that will directly affect the rights of persons, the report must record whether the persons have been provided with an opportunity to communicate their views and have their interests considered.

1.3. Informal meetings of Councillors

If there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors; and
- is attended by at least one member of Council staff

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are:

- tabled at the next convenient Council meeting; and
- recorded in the minutes of that Council meeting.

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1.4. Confidential information

If the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they must advise Councillors and/or members of Council staff accordingly.

If a Councillor has reason to believe that particular information falls within the definition of confidential information, even though they have not received advice that this is the case, they should treat it as confidential information and seek advice from the Chief Executive Officer.

Information which has been advised constitutes confidential information within the meaning of the Act will be presumed to be confidential information and treated as such until Council resolves otherwise.

1.5. Common seal

The common seal is only to be used with the authority of Council by resolution.

Every document to which the common seal is affixed must be signed by the Mayor and the Chief Executive Officer.

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2. Notices of meetings and delivery of agendas

2.1. Dates and times of meetings fixed by Council

Council must from time to time fix the date, time and place of all Council meetings.

2.2. Council may alter meeting dates

Council may change the date, time and place of any Council meeting and must provide reasonable notice of the change to the public.

2.3. Scheduling additional Council meetings

2.3.1. Calling an additional meeting

The Mayor or at least three Councillors may by a written notice call an additional Council meeting.

The notice must specify the date, time and format or location of the Council meeting and the business to be transacted.

The Chief Executive Officer must convene the Council meeting as specified in the notice.

2.3.2. Business at an additional meeting

Unless all Councillors are in attendance and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

Public question time is not mandatory for additional meetings.

2.3.3. Notifying Councillors of an additional meeting

A notice of meeting, accompanied by an agenda must be sent to every Councillor for all Council meetings at least 48 hours before the meeting.

Such a notice need not be sent to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to provide notice of any meetings during the period of their absence.

2.3.4. Notifying the public of meetings

Reasonable notice of each Council meeting must be provided to the public. Council may do this:

- **for scheduled meetings** by preparing a schedule of meetings at least annually and arranging publication of such schedule in a newspaper generally circulating in the municipal district and on its website and
- **for any additional meetings** by giving notice on its website and in each of its Customer Service Centres.

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3. Quorum

3.1. Inability to obtain a quorum

3.1.1. Process if quorum cannot be obtained or maintained

If after 30 minutes from the scheduled starting time of any Council meeting, a quorum cannot be obtained or if during a meeting a quorum cannot be maintained:

- the meeting will be deemed to have lapsed
- the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting and
- the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor.

3.1.2. Loss of quorum due to conflicts of interest

If the inability to maintain a quorum is due to the number of Councillors who have a conflict in the matter, section 67 of the Act applies.

4. Adjourning, postponing or cancelling a meeting

4.1. Adjournment of a meeting

If circumstances require, Council may adjourn any meeting to another date, time or venue.

The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

4.2. Time limits for meetings

A Council meeting may only continue beyond three hours if Council resolves to support the continuance.

A meeting cannot be extended for more than 30 minutes.

If the meeting is not extended, the meeting must be adjourned.

4.3. Cancellation or postponement of a meeting

The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting. The Chief Executive Officer must present to the next Council meeting a report on any exercise of this power and this must be recorded in the minutes.

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5. Business of meetings

5.1. Agenda and the order of business

The agenda for a Council meeting is to be determined by the Chief Executive Officer in consultation with the Mayor so as to facilitate and maintain open, efficient and effective processes of government.

The order of business of a meeting is as follows:

- Welcome
- Acknowledgement of Traditional Owners
- Apologies and leaves of absence
- Disclosure of conflicts of interest
- Confirmation of minutes
- Public question time
- Petitions and joint letters
- Officer reports – statutory planning
- Officer reports – matters for decision
- Officer reports – matters for noting
- Committee reports
- Delegate reports
- Reports of informal meetings of Councillors
- Notices of motion
- Urgent business
- Confidential items

5.2. Change to order of business

Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered by the Chai having regard to the business to be transacted and the gallery.

5.3. Urgent business

If the agenda for a Council meeting makes provision for consideration of urgent business, an item of urgent business may be admitted to the agenda if it:

- relates to or arises out of a matter which has arisen since distribution of the agenda; and
- cannot safely or conveniently be deferred until the next Council meeting.

A Council resolution is required to admit items of urgent business to the agenda before a substantive motion on the business is invited by the Chair.

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5.4. Councillors may propose notices of motion

Councillors may ensure that an issue is listed on an agenda by lodging a notice of motion. Councillors intending to lodge a notice of motion must raise the motion at a Councillor briefing in advance of the intended lodgement date.

5.4.1. Submitting a notice of motion

A notice of motion must be in writing and supported in writing by at least one other Councillor and must be sent to the Chief Executive Officer nine business days prior to the distribution of the Council meeting agenda.

5.4.2. Limits on notices of motion

A notice of motion must call for a Council report if it proposes any action which would:

- commit Council to unbudgeted expenditure above $20,000
- materially impact Council service levels, the delivery of strategic priorities in the annual action plan and delivery of initiatives in the draft budget
- commit Council to a contractual arrangement
- potentially prejudice Council in any litigation in which Council is a party or which concerns any litigation or compliance matter.

5.4.3. Grounds for rejection of notices of motion

The Chief Executive Officer must reject any notice of motion which:

- breaches the limits of notices of motion (section 5.4.2)
- would be disallowed under the Chair's duty (section 6.1)
- relates to a matter which is within the responsibility of the Chief Executive Officer
- is substantially similar to a notice of motion which has been introduced and lost within the last six months
- has not been raised by the sponsoring Councillor at a Councillor briefing

but must:

- notify the sponsoring Councillor the reasons for its rejection and
- give the Councillor who lodged it an opportunity to amend it prior to rejection.

5.4.4. Listing notices of motion in the agenda

The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the agenda in the order in which they were received.

5.4.5. Procedure when a Councillor cannot or does not move their motion

If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.

If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

DRAFT FOR CONSIDERATION

6. Motions and debate

6.1. Chair's duty

Any motion which is determined by the Chair to be:

- potentially defamatory
- objectionable in language or nature
- is likely to materially increase risk to councillors, staff or members of the community
- vague or unclear in intention
- outside the powers of Council or
- irrelevant to the item of business on the agenda and has not been admitted as urgent

must not be accepted by the Chair.

6.2. Introducing a report

Before an item is considered by, a member of Council staff may be invited by the Chair to briefly introduce the officer's report providing background, context and the rationale behind the administration's recommendations.

6.3. Introducing a motion or an amendment

The procedure for moving any motion or amendment is:

- The mover must state the motion (or confirm they are moving a written motion displayed to the meeting) without speaking to it.
- The Chair invites another councillor to second the motion. If a motion is not seconded, the motion lapses.
- If a motion or an amendment is seconded, the Chair must ask the mover and then the seconder to speak to it in turn.
- Once the mover and seconder have been offered an opportunity to speak, the Chair must open up the debate to all Councillors.

6.4. Right of reply

The mover of a motion, including an amendment, has a right of reply to arguments put forward against the motion in the course of debate.

The mover of a motion which has been amended does not have a right of reply.

After the right of reply has been offered, the motion must be put to the vote.

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6.5. Amendments

6.5.1. Moving an amendment

Once the mover and seconder have been offered an opportunity to speak to a motion, any other Councillor may propose to amend the motion by removing or adding words.

An amendment must be relevant to the subject of the motion and not be directly contrary to the intent of the motion.

6.5.2. How many amendments may be proposed

A Councillor cannot move more than two amendments in succession.

Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.

6.5.3. An amendment once carried

If the amendment is carried, the motion as amended then becomes the motion before the meeting and may be further debated if not all Councillors have exercised their right to vote before being put to the vote.

The right of reply is lost when a motion is amended.

6.6. Foreshadowing motions

At any time during debate a Councillor may foreshadow a motion which informs Council of their intention to move a motion in the event that the motion before the meeting is lost.

6.7. Chair may seek additional motions on specific items which require a decision

In the event that a motion fails on an item on which Council must make a decision, the Chair may ask for an additional motion even if one is not foreshadowed.

Matters on which Council must make decision would include but not be limited to statutory planning and compliance, legal or contractual obligations. In other instances, if a motion fails and no other motion is foreshadowed, the Chair must move on to the next item on the agenda.

6.8. Withdrawal of motions

Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the consent of the Chair.

6.9. Separation of motions

Where a motion contains more than one part, the Chair may decide to put the motion to the vote in separate parts.

A Councillor may request that the Chair put any single motion to the vote in parts.

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6.10. Priority of address

The Chair must decide the order in which the Councillors will be heard based on a show of hands.

6.11. Motions in writing

The Chair may require that a complex or detailed motion be in writing.

The Chair may briefly adjourn the meeting while the motion is being written.

6.12. Debate must be relevant to the motion

Debate must always be relevant to the motion before the Chair, and, if not, the Chair must request the speaker to confine debate to the motion.

6.13. Speaking times

A Councillor must not speak longer than the time set out below, unless granted a short extension (maximum 2 minutes) by the Chair:

- mover of a motion or amendment: 3 minutes
- any other Councillor: 2 minutes
- a Councillor exercising a right of reply: 2 minutes

6.14. Form of address

Any person addressing the Chair must use the form “Mayor [Surname]”/“Deputy Mayor [Surname]” or “Chair” as appropriate.

All Councillors, other than the Mayor, must be addressed as Cr [Surname]” or “Councillor”.

All members of Council staff, must be addressed by their salutation and surname or their official title “CEO”, “Director”, “Manager” or “Officer” as appropriate.

6.15. Right to ask questions of clarification

A Councillor may, when no other Councillor is speaking, ask a question through the Chair regarding a motion or amendment before the meeting.

This right is not to be used to further debate, re-prosecute matters already resolved by the meeting or extend speaking times.

The Chair has the right to limit questions and direct that debate be commenced or resumed.

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7. Procedural motions

7.1. Procedural motions

Unless otherwise prohibited, a procedural motion may be moved at any time and must be prioritised by the Chair.

Procedural motions will lapse if not seconded.

The Chair has discretion to disallow a procedural motion to close debate.

Allowable procedural motions and their respective provisions are included in the following table.

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PROCEDURAL MOTIONS TABLE

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate Permitted on motion
Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking	Motion and any amendment postponed to the stated time and/or date	Debate continues unaffected	Yes
Adjournment of debate indefinitely	That this matter be adjourned indefinitely	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair (b) When another Councillor is speaking or (c) When the motion would cause Council to be in breach of a legislative, contractual or other legal obligation	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
Closure of debate	That the motion be now put to the vote	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During nominations for Chair (b) As determined by the Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without further debate	Debate continues unaffected	No

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8. Rescission motions

8.1. Notice of rescission

8.1.1. When a notice of recession may be proposed

A Councillor may propose a notice of rescission to reverse a Council decision provided:

- it has been signed and dated by at least two other Councillors or confirmed by email
- the resolution proposed to be rescinded has not been acted on
- the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations and
- the notice of rescission is delivered to the Chief Executive Officer within 24 hours of the resolution having been made setting out the resolution to be rescinded and the date of the meeting.

8.1.2. When a resolution has been acted on

A resolution will be deemed to have been acted on if:

- its contents have or substance has been communicated in writing to a person whose interests are materially affected by it or
- a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person.

8.1.3. Halt on implementation of resolutions subject to a notice of recission

The Chief Executive Officer and relevant staff must defer implementing a resolution which has not been acted on and is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with these rules.

8.1.4. Content of a notice of recission

Notices of rescission may include a further substantive motion which may be moved if the rescission is carried.

8.2. Moving a recission motion

A motion of rescission listed on an agenda may be moved by any Councillor in attendance but may not be amended.

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9. Points of order

9.1. Chair to decide

The Chair must decide all points of order by stating the rule, practice or precedent which they consider applicable to the point raised. The Chair must make a ruling and then instruct the Councillors accordingly.

9.2. Chair may adjourn to consider

The Chair may adjourn the meeting briefly to consider a point of order.

All other business before the meeting is suspended until the point of order is decided.

9.3. Dissent from Chair's ruling

A Councillor may move that the meeting disagree with the Chair's ruling on a point of order, by moving "That the Chair's ruling be dissented from".

If such a motion is moved and seconded, the Chair must leave the Chair and a temporary Chair must take their place for the management of the motion. (Refer to the instructions for appointment of an acting Mayor, if necessary.)

The temporary Chair must invite the mover to briefly state the reasons for their dissent and the Chair may then reply.

The temporary Chair must put the motion in the following form "That the Chair's ruling be dissented from."

If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds

If the vote is in the affirmative, the Chair must then resume the Chair, state that they are reversing or varying their previous ruling and instruction and proceed with the meeting.

9.4. Procedure for point of order

A Councillor raising a point of order must:

- state the point of order and
- state the rule relevant to the point of order.

9.5. Valid points of order

A point of order may be raised in relation to:

- a motion which should not be accepted by the Chair
- a question of procedure
- any act of disorder or behaviour contrary to mandated standards

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10. Delegated Committees

10.1. Application of provisions

If Council establishes a delegated committee to make decisions on its behalf the provisions of these rules generally apply with the exception of the provisions mandating public question time allocation in the agenda, the mandated items of business and their order.

11. Public Question Time

11.1. Question Time

11.1.1. Public question time to be included in all scheduled Council meetings

There must be a public question time at every scheduled Council meeting to enable members of the public to submit questions to Council, with the exception of the election of the Mayor and Deputy Mayor and meetings closed to the public to deal with confidential business.

11.1.2. Duration of public question time

Public question time will be planned for 30 minutes in duration. Question time may be extended at the discretion of the Chair having regard to the number of questions and the business on Council's agenda.

11.1.3. Rules for submission of public questions

Questions submitted to Council must be in writing, stating the name and address of the person submitting the question and sent via Council's website, email or customer service centres prior to 12 noon the day prior to the Council meeting.

No person may submit more than two questions at any one meeting.

11.1.4. Reading of public questions at the meeting

Individuals may nominate to read their pre-submitted question of Council in person in attendance at the meeting.

If an individual who has submitted a question does not wish to address the Council directly, the Chair or a member of Council staff nominated by the Chair may read the question to the meeting.

The Chair may refrain from reading a question or having a question read if the person who submitted the question is not in attendance at the time when the question is due to be read.

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11.1.5. Disallowing of public questions

A question may be disallowed by the Chair if the Chair determines that it:

- relates to a matter outside the duties, functions and powers of Council
- is defamatory, indecent, abusive, offensive, irrelevant, or objectionable in language or substance
- deals with a subject matter previously addressed
- is intended to embarrass a Councillor or a member of Council staff
- relates to personnel, industrial, legal, contractual or confidential matters
- relates to the personal hardship of any resident or ratepayer
- relates to matters affecting the security of Council property or personnel
- relates to any other matter which Council considers would prejudice Council or any person.

Due to timelines, Council is not required to give the submitter an opportunity to revise a disallowed question.

The Chair may announce to the meeting that a question has been disallowed.

Any question which has been disallowed by the Chair must be made available to any other Councillor on request.

11.1.6. Procedure at public question time

All questions and answers must be as brief as possible.

Like questions may be grouped together by the Chair and a single answer provided.

The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question and the Chief Executive Officer may refer questions to senior officers.

11.1.7. Questions taken on notice

A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question and included in the minutes of the next meeting.

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12. Petitions and Joint Letters

12.1. Petitions and Joint Letters

12.1.1. Tabling of a petition or joint letter

Petitions and joint letters must be accompanied by a motion to receive the petition or joint letter

A petition or joint letter may be disallowed if it does not meet the requirements in these rules.

12.1.2. Required format for petitions and joint letters

Every hard-copy petition or joint letter presented to Council must be in writing, contain the names and addresses of at least 15 petitioners (for a petition) or five signatories (for a joint letter) and be signed by all petitioners or signatories.

- If a petition includes multiple pages of signatures, each of these pages must include the full text of the petition.
- If a joint letter is more than a page long, all signatories must initial each page in addition to signing the final page.

Electronic or online petitions do not require signatories' addresses or signatures but instead must list their names and email addresses. They must still meet the required number of petitions or signatories.

12.1.3. Petitions relating to operational matters

If a petition, joint letter or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.

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13. Voting

13.1. How votes are cast

Voting on any matter is by a show of hands or such other visible or audible means as the Chair determines.

13.2. Recount

The Chair may direct that a vote be recast to satisfy themself of the result.

13.3. Casting vote

In the event of a tied vote, the Chair must exercise a casting vote.

The Chair may adjourn a meeting to consider how their casting vote will be cast.

13.4. How a motion is determined

A motion is determined by a majority of votes of the Councillors attending the meeting.

The votes cast by all Councillors for or against the motion will be recorded in the minutes.

13.5. No discussion once declared

Once a vote on a motion has been taken, no further discussion relating to the question is allowed other than a Councillor requesting that the Chair note they are foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

14. Minutes

14.1. Confirmation of minutes

A copy of the minutes must be delivered to each Councillor no less than 48 hours before the meeting at which they are proposed to be adopted.

Minutes of meetings that contain confidential information may be adopted in an open meeting by providing the minutes in a confidential attachment. Alternatively, minutes of confidential meetings may be adopted in a meeting which is closed to the public.

At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:

- the Chair will seek a motion that the minutes be confirmed
- a Councillor may propose to alter the minutes by moving an amendment to add or remove words from the minutes

Once confirmed, the minutes must be signed as soon as practicable by the Chair of the meeting at which they have been confirmed.

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14.2. Form and availability of minutes

14.2.1. Contents of the minutes

The Chief Executive Officer must ensure that minutes are kept of each Council meeting and that those minutes record:

- the date, place and start and finish time of the meeting
- the names of the Councillors in attendance and the names of any Councillors who apologised in advance for their non-attendance or were absent
- the names of the members of Council staff in attendance
- any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor and the nature of the conflict
- arrivals and departures (including temporary departures) of Councillors during the course of the meeting
- each motion and amendment moved (including motions and amendments that lapse or fail)
- the vote cast by each Councillor on all items and any abstention from voting
- the record of public questions submitted, and answers given by the Council or administration
- questions taken on notice
- the failure of a quorum
- any adjournment of the meeting and the reasons for that adjournment and
- the time at which standing orders were suspended and resumed.

14.2.2. Availability of meeting minutes

The Chief Executive Officer must ensure that the minutes of any Council meeting are published on Council's website and available for inspection at Council's office during normal business hours.

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15. Public behaviour at meetings

15.1. Public addressing the meeting

Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.

A member of the public in attendance at a Council meeting must not disrupt the meeting.

15.2. Chair may remove disruptive attendees

The Chair may order the safe removal of any person, other than a Councillor, who disrupts any meeting and fails to comply with a direction given by the Chair to not cause disruption.

The Chair may ask the Chief Executive Officer or Victoria Police to facilitate the removal of a person who continues to disrupt the meeting and contravene the direction given by the Chair.

15.3. Chair may adjourn disorderly meeting

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later date to be advised.

15.4. The Chair's duties and discretions

In addition to the duties and discretions provided elsewhere in these Rules, the Chair:

- must not accept any question or statement which is offensive, derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and
- must call to order any person who is disruptive or unruly during any meeting.

16. Suspension of Standing Orders

16.1. Suspension of standing orders

Council may suspend standing orders for a specific narrow purpose including a short discussion or making a short statement without the constraints and formality of the rules.

No motion can be accepted by the Chair during any suspension of standing orders.

Once the discussion has taken place and before any motions can be put, the Chair must advise Councillors of the resumption of standing orders.

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17. Physical and remote attendance

17.1. Mode of attendance

17.1.1. Notification of meeting format

Each notice of meeting must indicate whether the relevant Council meeting is to be conducted wholly in person, wholly remotely or via hybrid means.

17.1.2. Request to attend an in-person meeting remotely

If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by remote means.

Any request to attend by remote means must:

- be in writing
- be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting; and
- specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.

In cases where it is not possible to give 24 hours' notice, requests may still be accepted at the Chief Executive Officer's discretion.

The Chief Executive Officer must ensure that any request to attend remotely is made known at the commencement of the relevant Council meeting.

Council must not unreasonably refuse any request for a Councillor to attend remotely.

17.1.3. Attending a meeting remotely

A Councillor who is attending a meeting by electronic means must be able to:

- see and hear all Councillors and
- be seen and be heard by all Councillors.

If these conditions cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise the Council meeting will proceed unless adjourned as long as a quorum is present and the relevant Councillor (or Councillors) will be treated as being absent from that part of the Council meeting.

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18. Disclosure of conflicts of interest

18.1. Disclosure of a conflict of interest at a Council meeting or delegated committee meeting

A Councillor who has a conflict of interest in a matter being considered at a Council meeting (as defined in sections 127-129 of the Act) must:

- disclose the conflict of interest indicating whether it is general or material by providing written notice to the Chief Executive Officer before the Council meeting; and
- disclose the nature of the conflict of interest to those in attendance at the Council meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest

In addition to the above, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the Councillor must detail:

- the nature of the relationship with that other person or the date of receipt, value and type of any gift received from the other person and
- the nature of that other person's interest in the matter.

As required by section 130(2) of the Act, the Councillor must leave the Council meeting for any items on which they have declared a conflict and not return until after the matter has been concluded.

The Chief Executive Officer must retain all written notices for a period of four years.

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Part B – Election of Mayor

19. Election of the Mayor

The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act and these rules.

19.1. Method of Voting

The election of the Mayor must be carried out by a show of hands or such other visual or audible means as determined by the Chief Executive Officer.

19.2. Determining the election of the Mayor

The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.

Nominations for the office of Mayor must be seconded by another Councillor before candidacy is confirmed.

Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor.

The Chief Executive Officer will check that nominees accept their nomination and are willing to stand as a candidates for election.

The Chief Executive Officer will then provide three minutes to each candidate to address the meeting.

No debate is allowed during the election.

19.2.1. Single nomination

If there is only one nomination, the candidate nominated must be declared to be duly elected.

19.2.2. Multiple nominations with candidate elected on first vote

If there is more than one nomination, the Councillors in attendance at the meeting must vote for one of the candidates.

In the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate is declared to have been elected.

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19.2.3. Multiple nominations with no candidate obtaining an absolute majority on first vote

In the event that:

- there are multiple candidates and
- no candidate receives the votes of an absolute majority of Councillors

the candidate with the fewest number of votes (in the event the votes are not tied) must be declared to be a defeated candidate.

If there are two remaining candidates once one has been defeated, the vote must be conducted again until one candidate achieves an absolute majority.

If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is declared elected.

If none of the remaining candidates receives the votes of an absolute majority of votes the Chief Executive Officer will ask for a motion to conduct a new election at a later day and time. If a new election is not resolved the Chief Executive Officer will repeat the vote again for the remaining candidates.

In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors in attendance at the meeting will consider whether to resolve to conduct a new election at a later date and time.

If it is not resolved to conduct a new election at a later date and time, Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared elected.

19.2.4. Defer election at any stage during proceedings

At any stage if a successful election is not achieved, Council may resolve to conduct a new election at a later date and time.

20. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for the Office of Deputy Mayor or Chair of a Delegated Committee will be regulated by these same provisions as if the reference to the Chief Executive Officer is a reference to the Mayor and Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee.

21. Appointment of Acting Mayor

If Council has not established an office of Deputy Mayor, or if the Deputy Mayor is not available, and it becomes necessary to appoint an Acting Mayor, it can do so by either:

- resolving that a specified Councillor be so appointed, or
- following the procedure for the election of the Mayor.

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PART C – Election Period Policy

22. Purpose

The Election Period Policy (the Policy) has been developed in accordance with the *Local Government Act 2020* (the Act), in order to ensure Hobsons Bay City Council general elections and by-elections are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

During an Election Period, local government goes into "caretaker mode", avoiding actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.

The Act requires councils to have a Policy to explain to their communities how they will conduct their business immediately prior to an election. This is to ensure council elections are not compromised by inappropriate electioneering by existing councillors and to safeguard the authority of the new council.

The policy also provides guidance at an operational level to ensure compliance with legislative requirements, demonstrates the Council's commitment to probity in its elections and ensures transparency and accountability of the Council, Councillors and staff during the Election Period.

23. What is this policy designed to achieve?

This Policy applies during an Election Period (refer below for definition) to cover:

- decisions that are made by Council, a delegated committee or a person acting under delegation by the Council
- any material that is published by the Council or on Council's behalf
- protocols for Council and Committee meetings
- limits on public consultation and scheduling of Council events
- attendance and participation in functions and events
- the use of Council resources
- access to Council information
- media and media services.

24. Operation of policy (Election Period)

This Policy applies during the Election Period, which:

- **commences** at the time that nominations close on Nomination Day for that election; and
- **concludes** at 6pm on Election Day.

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25. Scope

This policy applies to all Councillors and Council staff and includes contractors and volunteers carrying out work for or on behalf of Hobsons Bay City Council.

External candidates for election are expected to comply with the obligations of this policy where applicable.

26. Accountability

26.1. Role of Councillors

During the Election Period, Councillors:

- will continue to fulfil their Councillor duties (unless they are granted leave of absence)
- will continue to engage and communicate with the community in their Councillor role
- must comply with the Act and the Model Code of Conduct and this Policy; and
- must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

26.2. Role of the Chief Executive Officer

During the Election Period, the Chief Executive Officer (or their delegate) will:

- inform all Councillors and Council employees of this Policy at least 30 days prior to the commencement of the Election Period
- support all Councillors and Council employees in the application of this Policy during the Election Period; and
- reschedule matters of Council business requiring decisions prohibited during the Election Period by this Policy or the Act to Council meetings before or after the Election Period, as appropriate.

26.3. Role of staff

An important part of Council integrity is that all staff need to remain impartial at all times.

During the leadup to (not just during) the Election Period, staff need to maintain impartiality by avoiding making any comment or expressing an opinion, in any context which is public or may become public, in relation to candidates, potential candidates or policy debates in the lead up to an election.

This is particularly the case where employees are identified as Council staff or representing Council in the public arena. Social media use of this kind also requires extreme caution and judgement and employees are discouraged from engaging with candidate-hosted online media platforms.

Staff also need to avoid working on any task that could be seen to relate to the candidates for the election or to any role that current Councillors may play in the election, particularly when representing Council.

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27. Decisions during the Election Period

Council, a **delegated committee of Council** or a **person acting under delegation given by the Council** must not make prohibited decisions during the Election Period for a general election.

27.1. Prohibited decisions

Provisions under section 69 of the Act prohibit Council from making certain decisions during the Election Period for a general election. A prohibited decision is one that:

(a) relates to the appointment or remuneration of a Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or

(b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or

(c) the Council considers could be reasonably deferred until the next Council is in place; or

(d) the Council considers should not be made during an Election Period; or

(e) would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election (this also applies to by-elections).

Any Council decision made in contravention of points (a) and (b) above is invalid.

Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of section 69(4) of the Act, is entitled to compensation from the Council for that loss or damage.

27.2. Other types of decisions that will be avoided (inappropriate decisions)

Inappropriate decisions are defined in this policy as meaning decisions that:

- would affect voting in an election
- may unreasonably bind an incoming council and could reasonably made after the election.

The following inappropriate decisions will also be avoided during the Election Period:

- allocation of community grants or other direct funding to community organisations
- major planning scheme amendments
- sale or discontinuance of roads etc.
- changes to strategic objectives and strategies in the Council Plan.

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27.3. Considerations for officers with delegated authority

Most Council decisions are not made at meetings of the Council. Significant decision-making power is formally delegated to staff and the decision of a delegate is deemed to be a decision by Council.

Because a delegate's decision is the same as a Council decision, the same constraints that apply to decisions made in Council and Delegated Committee meetings apply when delegates make decisions. Delegates should therefore give careful consideration to the exercise of their powers during the Election Period.

Should a delegate be required to make a decision(s) under delegation in the ordinary course of Council business during the Election Period, the delegate must satisfy themselves beforehand that the decision is not a prohibited decision and should consider the following:

- whether the decision is prohibited, or falls withing the "other types of decisions to be avoided" category
- the urgency of the issue (that is, can it wait until after the election?)
- the possibility of financial repercussions if it is deferred
- whether the decision is likely to be controversial or influence voters
- within the best interests of Council.

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Corporate Integrity in the first instance.

28. Meetings

28.1. Council and Delegated Committee meetings

Council and Delegated Committee meetings will continue to take place during the Election Period, although the following modifications to standard protocols will be made:

28.1.1. Audio and video recordings of Council and Committee meetings

While notice of meetings, agenda papers, minutes and livestreaming are considered to be part of normal Council business, audio and video recordings of these meetings are not. As such, audio and video recordings of meetings which take place during the Election Period will not be made available on Council's website until after the Election Period has concluded.

28.1.2. Election Period statement in reports

All reports to Council and Delegated Committees will be assessed by the Chief Executive Officer in accordance with the Act and this policy and, if approved, will include an Election Period Policy statement in the form as follows:

"The recommended decision is not a prohibited decision as defined in section 69 of the *Local Government Act 2020* or an inappropriate decision within the meaning of the Election Period Policy."

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28.1.3. Meeting elements suspended during the Election Period

The following elements of a Council meeting (or Delegated Committee meeting if applicable) are suspended during the Election Period:

- notices of motion
- public question time
- delegate reports
- tabling of correspondence
- tabling of petitions or joint letters

28.2. Council Advisory, Reference Committees and Working Groups

With the exception of the Audit and Risk Committee, the operation of Council Advisory and Reference Committees and Working Groups shall be suspended upon the commencement of the Election Period ahead of a general election.

Such Council Committees and Working Groups shall resume meeting (subject to review), following the election and the appointment by the incoming Council of Councillors to each committee.

28.3. Councillor representation on external committees

Where a Councillor has been appointed to an external committee or board it is expected that they will attend meetings of the committee or board during the Election Period.

A Councillor must not attend an external committee or board meeting, where they are a Councillor representative, in their capacity as a candidate. A Councillor must be mindful of their obligations under this Policy and not conduct any electoral campaigning activities at the meeting.

28.4. Councillor Briefings

The Chief Executive Officer, following consultation with the Mayor, will determine whether Councillor Briefings will be held during the Election Period.

29. Council publications during the Election Period

29.1. Review of Council communications

During the Election Period (and where appropriate or necessary immediately preceding it) the Chief Executive Officer (or their delegate) will cause all Council communications, including social media, all Council-managed websites and printed and/or published material, to be subject to review to ensure consistency and compliance with this Policy and the Act.

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29.2. Prohibition on publishing materials containing electoral matter during the Election Period

Council must not publish material containing electoral matter that may influence, or be seen to influence, people's voting decisions.

Electoral matter is defined in the Act as "matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election."

Council will not:

- print, publish or distribute, or
- cause, permit or authorise others to print, publish or distribute on behalf of the Council—

any advertisement, handbill, pamphlet or notice that contains electoral matter during the Election Period.

Publication should be read broadly to include electronic information and web-based productions.

A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:

- the election; or
- a candidate in the election; or
- an issue submitted to, or otherwise before, the voters in connection with the election.

Some examples include publishing material which:

- sets out the strengths or weaknesses of a candidate
- advocates the policies of the Council or a candidate
- responds to claims made by a candidate
- sets out the achievements of the elected Council or Councillor.

The controls do not cover electoral material produced by, or on behalf of, the Election Manager for the purposes of conducting an election or advertisements/posts which simply announce the holding of a meeting or the election process itself.

29.3. Process for review and approval of Council publications

Relevant Council publications must be approved by the Chief Executive Officer (or their delegate) before they may be printed, published or distributed during the Election Period, whether by Council or anyone acting for Council.

The approval process is to apply to any documents produced for the purpose of communicating with people in the community. This may mean some material requires approval before the commencement of the Election Period in order for it to be issued or disseminated during the Election Period.

All material will be submitted to the Governance team (within a time frame to be determined) for vetting. Staff will be notified by return email once approval has been

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provided (all effort will be made to ensure approval is provided in line with specified deadlines).

All approved material will bear the following affixation and be signed and dated:

“Approved by the Chief Executive Officer (or their delegate) on [insert date].”

All documentation in relation to the approval process will be retained on Council records.

Material that may be affected includes, but is not limited to:

- new material on Council websites
- social media posts
- Council newsletters, brochures, flyers and magazines
- material available in libraries and Council offices
- media releases
- public speeches
- brochures on service/facilities
- advertisements (including job advertisements)
- Council newspapers
- mail outs to multiple addresses
- material publicising a function or event.

29.4. Information about the election

Council may provide information, education and publicity designed only to promote public participation in the electoral process.

29.5. Publication of Council and Committee agenda papers and minutes

Council is required by the Governance Rules to:

- give public notice of Council meetings and Delegated Committee meetings; and
- produce and make available agendas and minutes of Council meetings and Delegated Committee meetings.

To enable Council compliance with its statutory obligations and the Governance Rules, both of the above categories of documents will continue to be published during the Election Period and will be reviewed in accordance with the process for review and approval in section 29.3.

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29.6. Council Annual Report

Due to the publication date of the Annual Report generally occurring during the Election Period, the report is affected by the legislative restrictions on publications and therefore information about Councillors will be restricted to what is required by the *Local Government (Planning and Reporting) Regulations 2020* along with a photograph of the Councillor and list of special committees and other bodies to which they have been appointed by the Council.

The Annual Report will not contain a foreword from the Mayor.

29.7. Council websites

During the Election Period Council's websites will not contain material which contravenes this policy.

Any references to the election will only relate to the election process.

Councillor profiles will be restricted to:

- names
- photographs
- contact details
- titles.

29.8. General Council publications

Information about Councillors will be restricted in Council publications (such as Hobsons Bay Community News) in a similar manner to the restrictions on Council website information.

Publication of the Mayor's message in the Hobsons Bay Community News will be suspended during the Election Period.

29.9. Social media

Social media includes but is not limited to Facebook, Instagram, YouTube and LinkedIn.

In accordance with the process for review and approval of Council publications, any publications on social media sites under the auspices of Council during the Election Period require approval, prior to publication. This may mean messages and/or responses to questions may not be posted as quickly as normal.

Protocols have been developed for managing Council's corporate social media and online channels.

While the Communications Team will monitor the mainstream platforms, any staff member who manages a social media or online channel as part of their role with Council is required to apply the same protocols.

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30. Public consultation and engagement

Consultation and engagement is an integral part of Council's policy development process and operations. For the purposes of this section, public consultation and/or engagement means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

Surveys, blogs, invitations to put forward submissions, and other community engagement activities should be avoided during the Election Period.

30.1. Postponing consultation and engagement

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the Election Period, Council reserves the right where possible and practicable, to postpone public consultation and engagement and any associated decisions where the matter is considered likely to affect voting in the election.

Council will not continue or commence public consultation on *prohibited decisions*, contentious or politically sensitive matters after the commencement of the Election Period. However, some public consultation activities may be necessary during the Election Period to facilitate the day-to-day business of Council and shall only proceed if prior approval is given by the Chief Executive Officer.

Where public consultation or engagement is approved to occur prior to or during the Election Period the results of that consultation will not be reported to Council until after the Election Period, except where approved by the Chief Executive Officer.

Any public consultation that does proceed during the Election Period will be vetted for electoral matter and express or implicit links to the election.

The requirements of this section do not apply to public consultation required under the *Planning and Environment Act 1987* or matters subject to section 223 of the *Local Government Act 1989*.

31. Media and media services

Council's media services are intended to promote Council activity or initiatives and must not be used in any way that might favour a candidate.

31.1. Media advice

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

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31.2. Media releases and spokespersons

Media releases will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue, the Chief Executive Officer will determine the appropriate person.

31.3. Publicity campaigns

During the Election Period, publicity campaigns other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer. In any event, Council publicity during the Election Period will be restricted to communicating normal Council activities and initiatives and will not involve specific Councillors.

31.4. Councillors

Councillors will 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.

31.5. Council employees

During the Election Period no Council employee may make any public statement that relates to an election issue unless statements have been approved by the Chief Executive Officer.

32. Attendance at functions and events during the Election Period

In this part, reference to events and functions means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners, receptions and balls.

32.1. Public events staged by external bodies

Councillors may continue to attend events and functions during the Election Period.

Councillors are not permitted to use events they are attending in an official Councillor capacity, for electioneering purposes.

32.2. Council events and functions

Council-organised events and functions held during the Election Period will be reduced to only those essential to the operation of the Council.

Any civic or ceremonial Council event held during the Election Period should meet one or more of the following criteria:

- it is a planned event endorsed by the current Council Plan

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- it is routinely held at the same time of year
- it is a commemorative or anniversary event held on or near the anniversary date
- it demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- it contributes to cultural development, social awareness or sense of community identity.

32.3. Speeches and keynote addresses

Councillors who are candidates in the election must not give speeches or keynote addresses at Council organised or sponsored events and functions during the Election Period.

Councillors may make short welcome speeches at Council-organised or sponsored events and functions during the Election Period, subject to prior approval from the Chief Executive Officer.

32.4. Publication of promotional material

In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during the Election Period, such preparation must be consistent with the controls under this Policy. It contributes to cultural development, social awareness or sense of community identity.

33. Council resources

Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. Council staff must avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.

33.1. Councillor requests

Councillors may only make operational requests to the Chief Executive Officer, Directors or the Manager Corporate Integrity during the Election Period.

33.2. Councillor correspondence

General correspondence (including email) addressed to Councillors will be answered as usual.

However, Councillors will only respond to the necessary minimum correspondence during the Election Period and correspondence in respect to significant, sensitive or controversial matters should be responded to by the Chief Executive Officer or their delegate.

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33.3. Title of Councillor

Councillors may continue to use the title “Councillor” in their election material as they hold that position during the Election Period. However, Councillors should ensure that any election material using the title clearly indicates that it is their own material and does not represent Council.

33.4. Use of Council facilities

Council facilities that are normally available for public hire will be able to be hired by candidates (including councillor candidates) at the normal hire rate, terms and conditions of hire set for the facility.

No promotional material related to an election event, apart from simple directional signage, is to be displayed in the common public areas of a Council facility being hired.

33.5. Cessation of the Meet Your Council program

The Meet Your Council program (including listening posts) and ward-specific publications will not be conducted or distributed during the Election Period.

33.6. Use of Council equipment and services by Councillors

Councillors may continue to use any Council equipment and services provided to them to facilitate their performance of normal Council duties in line with the Councillor and Delegated Committee Member Expenses Policy.

Council-issued resources including offices, vehicles, hospitality services, mobile phones and numbers, laptops and council email addresses, computers or printers, are not to be used in connection with any election campaign.

Councillors should also be mindful to manage any perceived conflicts even where a direct expense is not incurred; this may include for example:

- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.
- Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.

33.7. Reimbursement of expenses incurred by Councillors

Reimbursement of expenses and costs incurred by Councillors during the Election Period must only relate to the conduct of normal Council duties and not electoral purposes.

33.8. Council branding and stationery

No Council logos, letterheads or other Council branding will be used for, or linked in any way to, a candidate’s election campaign.

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33.9. Support to the Mayor, Deputy Mayor and Councillors

No staff, including support staff for the Mayor, Deputy Mayor and Councillors must be asked to undertake any tasks connected directly or indirectly with an election campaign.

33.10. Councillor photographs

Councillors are not permitted to use photos or images taken by or provided by Council for the purposes of their election campaign (including photographs appearing on Council websites).

33.11. Council data

Databases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the *Privacy and Data Protection Act 2014* and are not available to members of the public, candidates or to Councillors.

34. Electoral signage on Council-controlled land and property

Candidates and their supporters are not permitted to affix, attach or place advertising signs or electoral material on Council-controlled land, assets or a Council road, in the leadup to or during the Election Period.

Further guidance will be made available on Council's website.

35. Equity in assistance to candidates

The Council affirms that all candidates for the Council election will be treated equally and recognises candidates have certain rights to information relevant to their election campaigns from the Council administration subject to legislative constraints such as:

- section 123 of the Act which prohibits Councillor-candidates from misusing or inappropriately making use of their position; and
- the *Privacy and Data Protection Act 2014*.

Councillors will continue to be provided with information to enable them to perform their current role and function as a Councillor. Beyond that, only information that is readily available to any member of the community will be provided to any candidate.

35.1. Information Request Register

An Information Request Register will be maintained by the Governance Team during the Election Period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the response given those requests.

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35.2. Information for candidates

Council will make the following information available on its website for prospective candidates:

- information about this Policy
- information about nominating as a candidate (with links to relevant sites)
- key dates and activities, including dates of induction activity and briefing meetings post-election
- information about election campaign donation returns
- any other relevant information.

35.3. Staff as candidates

A staff member is not prevented from nominating as a candidate at an election. Upon becoming a candidate in a Hobsons Bay City Council election, the staff member must:

- inform the Chief Executive Officer
- take leave from their duties at least for the duration of the Election Period in accordance with sections 34 and 256 the Act
- return any Council equipment (including but not limited to motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the Election Period
- if elected, immediately resign from their employed position at Council prior to taking the oath or affirmation of office, in accordance with sections 34 and 256 of the Act.

35.4. Member of Council Delegated or Advisory Committees

Upon becoming a candidate, any person who is a member of one of Council's Delegated Committees or Advisory committees is expected to:

- comply with this Policy
- inform the Chief Executive Officer
- take leave from the Delegated Committee or Advisory Committee
- return any Council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the Election Period; and
- if elected, immediately resign from the Delegated Committee or Advisory Committee.

35.5. Election process enquiries

All election process related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election Manager or, where the matter is outside the responsibilities of the election manager, to the Manager Corporate Integrity.

36. Suspension of matters during Election Period

In accordance with the Act, any applications made, or internal arbitration processes or proceedings before a Councillor Conduct Panel or the Victorian Civil and Administrative

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Tribunal regarding the misconduct, serious misconduct or gross misconduct of a person who is a Councillor, must be suspended during the Election Period.

37. Breaches

37.1. Misuse of position

Section 123 of the Act prohibits current or former Councillors or members of delegated committees from using their position to gain access to information or resources that would otherwise not be available.

The Act specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position he or she held or holds;
- disclosing information that is confidential information within the meaning of section 3(1) of the Act;
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff;
- exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform;
- using public funds or resources in a manner that is improper or unauthorised; or
- participating in a decision on a matter in which the person has a conflict of interest.

A breach of section 123 of the Act attracts serious penalties, including possible imprisonment.

Allegations of breaches of the Act are independently received and investigated by the Local Government Inspectorate.

37.2. Prohibition on Councillor or member of Council staff

Section 304 of the Act prohibits Councillors or a member of Council staff from using resources in a way that is intended to or likely to affect the result of an election under the Act.

In addition, section 304 of the Act also prohibits Councillors or a member of Council staff from using Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the Election Period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

37.3. Breach of this Policy

Any breach of this Policy relating to staff conduct is to be referred to the Chief Executive Officer.

Allegations of breaches of this Policy by Councillors will be dealt with under the Dispute Resolution Procedures of the Councillor Code of Conduct. The Chief Executive Officer

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will take the place of the Mayor in managing complaints received under the Election Period Policy.

Complaints must be directed to the Chief Executive Officer in writing, providing details of the alleged contravention, when it occurred and who it involved. The Chief Executive Officer will assess the information and follow the provisions of the Dispute Resolution Procedures of the Councillor Code of Conduct.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at email address inspectorate@lgi.vic.gov.au or phone 1800 469 359.

38. By-elections

This policy shall be observed during any by-election, except points (a) to (d) in section 27.1.

Other provisions of relevance to the municipality as a whole shall be limited in application to the ward in which the by-election applies to.

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39. Administrative updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively.

Examples include a change to the name of a Council department or position title, a change to the name of a Federal or State Government department, or a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made with the approval of Executive Team or where required, resolution of Council.

40. Monitoring, evaluation and review

This Policy will be reviewed not later than 12 months before the commencement of each subsequent general election.

41. Related legislation and documentation

Local Government Act 2020

Local Government Act 1989

Local Government (Electoral) Regulations 2020

Local Government (Governance and Integrity) Regulations 2020

Privacy and Data Protection Act 2014

Victorian Electoral Act 2002

Model Code of Conduct

Councillor and Staff Interaction Protocol

Community Engagement Policy

Councillor and Delegated Committee Member Expenses Policy

Gifts, Benefits and Hospitality Policy

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42. Definitions

Key terms and definitions used in this Policy include:

Term	Definition
Act	Local Government Act 2020
Candidate	A person who has nominated as a candidate for an election under section 256 of the Act
Chief Executive Officer	The person appointed by a Council under section 44 of the Act to be its Chief Executive Officer, or any person acting in that position.
Council	Means Hobsons Bay City Council, being a body corporate constituted as a municipal council under the Act (also referred to as Hobsons Bay City Council).
Delegated Committee	a delegated committee established by a Council under section 63 of the Act; or a joint delegated committee established by two or more Councils under section 64 of the Act; or a committee, other than a Community Asset Committee, exercising any power of a Council under this Act or any other Act delegated to the committee under this Act or any other Act.
Election Manager	the VEC; or a person appointed in writing by the VEC.
Election Period	the period that starts at the time that nominations close on nomination day and ends at 6pm on election day.
Staff, Council staff or staff member	Means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Council.

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