



# Councillors as Candidates in a State or Federal Election Policy

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<b>Authorisation</b>	Council – 30 April, 2018
<b>Review date</b>	30 June 2020
<b>Responsible officer</b>	Manager Legal and Governance
<b>Policy owner</b>	Governance Coordinator

## 1. Purpose

The purpose of this policy is to outline Council’s position in relation to a Councillor announcing an intention to be, or taking the step to nominate as, a candidate in a State or Federal election.

By complying with this policy, it is expected that Councillors will avoid the appearance that their position as a Councillor is being used as a platform for their campaign in the relevant State or Federal election.

## 2. Scope

This Policy applies to all Councillors who make the decision to be a Prospective Candidate or take the steps to be a Nominated Candidate for a Federal or State election.

This policy recommends the same treatment for Prospective Candidates and Nominated Candidates.

## 3. Definitions

Word/Term	Definition
Act	<i>Local Government Act 1989 (Vic)</i>
Nominated Candidate	a Councillor who has taken the steps required to nominate as a candidate for election. Typically, nomination takes place three to six weeks prior to the relevant election date.
Prospective Candidate	a Councillor who is endorsed as a candidate for election by a political party or who if not a member of a political party has announced their intention to nominate as a candidate in an election.
Council	means the City of Melton City, a body corporate constituted as a municipal Council under the <i>Local Government Act 1989</i> (the “Act”)
Election	a Victorian State election or a Federal election or a by-election for either parliament.
Election Period	the period commencing on the day a Councillor nominates as a candidate for election and concluding at the close of voting on election day.

Formal nomination date	the date set by the relevant electoral commission at which nominations to be candidates in an election close.
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#### **4. Policy**

This policy supports good governance at the City of Melton prior to and during an Election Period, provides guidance to Councillors to act in the best interests of the community whilst undertaking normal business including the functions of legitimate advocacy in an unbiased manner.

##### **4.1 Councillors to declare their candidacy in an election**

A Councillor who becomes a Prospective Candidate or a Nominated Candidate should provide written advice to the Chief Executive Officer (CEO), as soon as practicable, who will then advise all councillors in writing.

A Councillor who is a Prospective Candidate or a Nominated Candidate, should declare his/her intended candidacy at a meeting of the council as soon as practicable after notifying the CEO as above.

##### **4.2 Leave of absence**

A Councillor who becomes a Prospective Candidate or Nominated Candidate, should apply for leave of absence from the Council and this leave of absence should commence no later than the date of their advice to the CEO and conclude either at the close of voting for the election or when they no longer be a Prospective Candidate or Nominated Candidate, whichever occurs earlier. Section 66B of the Act outlines the Leave of Absence provisions.

Such a leave of absence is to be sought in accordance with the processes ordinarily adopted by Council and cannot, in accordance with section 69(2) of the Act, be unreasonably refused by Council.

A Councillor should request for their councillor allowance be ceased for the period they are on leave of absence. Section 74A(3) of the Act deals with payment of councillor allowances.

During this period, a Councillor who is on a leave of absence must not attend meetings of the council or otherwise act as a Councillor.

If the Councillor who becomes a Prospective Candidate or Nominated Candidate holds the Office of Mayor, it is the position of this Council that the Mayor should take a leave of absence in the same way as any other Councillor. In this circumstance, the council must appoint one of the Councillors to be the acting Mayor. (Refer the Act, sections 66B(2) & 73(3)).

##### **4.3 Improper Use of Position by Councillors**

A Councillor who is a Prospective or Nominated Candidate must take care to differentiate between his/her role as a state or federal election candidate and role as a Councillor when making public comment.

A Councillor who is a Prospective or Nominated Candidate must at all times avoid campaigning on (opposing or taking credit for) Council decisions in an effort to not be seen as misusing or inappropriately making use of their position. This includes making their views public on matters before the council (before or after it has been resolved) by way of letters, fliers, social media posts and other communication avenues.

Sections 76D and 76E of the Act prohibit Councillors from misusing or inappropriately making use of their position. A breach of section 76D attracts serious penalties, including possible imprisonment.

#### 4.4. Council Resources and Activities

A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use council resources, including council equipment and facilities in relation to his/her candidacy. This includes no use of office equipment including computer equipment, vehicles, telephones, mobile phones, logos, letterhead, council email addresses, mail and publications in relation to his/her candidacy.

The Councillor must not use council activities, including committee meetings and council-related external activities in relation to his/her candidacy.

#### 4.5. Media Advice

Where a Councillor speaks on Council issues who is a Prospective or Nominated Candidate, the Councillor must clearly identify this fact.

No media advice or assistance will be provided in relation to election issues or publicity that involves Councillors who are a Prospective or Nominated Candidate.

Consistent with Council's Media Policy, media and external communications issued by Council are not to be used for political advantage by Councillors who are a Prospective or Nominated Candidate.

Media releases will not refer to specific Councillors in their capacity as Prospective or Nominated Candidates. Councillors who are Prospective or Nominated Candidate are not eligible to be Council's official spokesperson on Council advocacy priorities, Council will nominate an alternate Councillor to be Council's advocacy spokesperson where required.

Councillors will not use Council staff and other Council resources to gain media attention in support of an election campaign for a Councillor who is a Prospective or Nominated Candidate.

Photos of and references to Councillors who are a Prospective or Nominated Candidate will only feature in Council's publications where it is related to usual Council business, functions or events.

During this time the Mayor and Deputy Mayor will not delegate to any Councillor who is a Prospective or Nominated Candidate any responsibility to represent him or her.

### 5. Responsibility /Accountability

5.1	<b>Governance Coordinator</b> <ul style="list-style-type: none"><li>The Governance Coordinator is the policy owner and is responsible for updating and amending this policy and related procedures.</li></ul>
5.2	<b>Manager Legal and Governance</b> <ul style="list-style-type: none"><li>The Manager Legal and Governance is the responsible officer and is responsible for providing professional advice and guidance to Councillors regarding this policy.</li></ul>

## 6. References and links to legislation and other documents

Name	Location
<i>Local Government Act 1989</i>	<a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
Councillor Code of Conduct	Policy Intranet
Governance Charter	Policy Intranet
Conflict of Interest: A Guide for Council Councillors	Policy Intranet
Mayor and Councillors Purchase Card Procedure	Policy Intranet
Resource Support and Expenses of Councillors and Special Committee Members Policy	Policy Intranet
Media Policy	Policy Intranet