



COUNCILLOR CODE OF CONDUCT

September 2009

Our Commitment to Whitehorse

As Councillors, we will commit to providing the City with good government by:

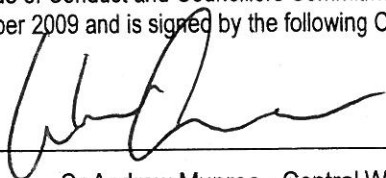
- Engaging with the community
- Reflecting community values and aspirations
- Making decisions in a transparent manner
- Making decisions in an efficient and timely manner
- Advocating and representing with dignity the interests of the community to other levels of government and to public and private agencies
- Reporting regularly to the community on its plans, actions and performance
 - Encouraging sustainability

As Councillors, we will commit to being:

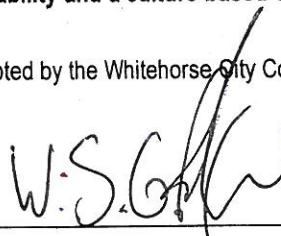
- Innovative • Inclusive • Caring • Open and responsive
- Honest in leadership • Visionary

As a Council, we will promote high standards of performance, accountability and a culture based on strong values of excellence, respect, integrity and courage.

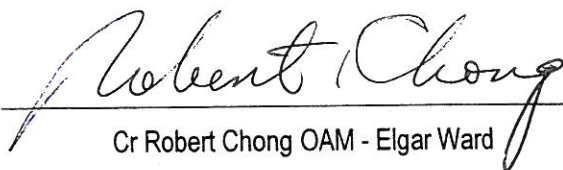
This Code of Conduct and Councillors Commitment to Whitehorse were adopted by the Whitehorse City Council on Monday 21 September 2009 and is signed by the following Councillors:



Cr Andrew Munroe - Central Ward



Cr Bill Pemberton - Central Ward



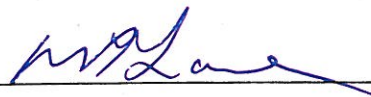
Cr Robert Chong OAM - Elgar Ward



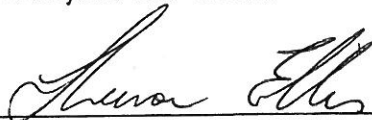
Cr Helen Harris OAM - Elgar Ward



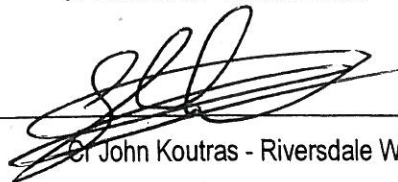
Cr Raylene Carr - Morack Ward



Cr Mark Lane - Morack Ward



Cr Sharon Ellis - Riversdale Ward



Cr John Koutras - Riversdale Ward



Cr Ben Stennett - Springfield Ward



Cr Philip Daw - Springfield Ward

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PART 1

1. INTRODUCTION

This Councillors' Code of Conduct ("the Code") has been prepared to meet the requirements of Section 76C of the *Local Government Act 1989* ("the Act") and complements the Council Plan 2009-2013 and the Code of Conduct which applies to all Council staff. In some cases (eg: disclosures of conflict of interests, confidential information, reimbursement of expenses etc), the provisions of this Code also apply to:

- a. members of special committees ("Members") – whether or not they are Councillors; and
- b. members of the Audit Committee (which is an Advisory Committee).

Part 2 of this Code contains special provisions which outline how Council and Councillors should conduct themselves during any election period (as defined in section 3 of the Act).

The Council has adopted this Code as policy and notes that pursuant to section 76C (6) (b) of the Act, the Code must be available for public inspection.

2. CONDUCT AND INTERESTS

Division 1A of Part 4 of the Act deals with "Conduct and Interests". A summary of the sections within that Division is provided in *Table 1*.

Section	Requirement
76AA	Defines: <ol style="list-style-type: none"> a. "assembly of councillors"; b. "matter"; and c. "relevant person".
76B	Establishes the primary principle of Councillor conduct, namely that a Councillor must: <ol style="list-style-type: none"> a. act with integrity; and b. impartially exercise his or her responsibilities in the interests of the local community; and c. not improperly seek to confer an advantage or disadvantage on any person.
76BA	Establishes additional principles of Councillor conduct, namely: <ol style="list-style-type: none"> a. avoidance of conflicts of interest; b. the need to act honestly; c. respectful treatment of others; d. the exercise of reasonable care and diligence and acceptance of scrutiny; e. the need to endeavour to ensure that public resources are used prudently and solely in the public interest; f. the need to act lawfully; and g. to support and promote the principles through leadership and example.

Section	Requirement
76C	Provides that a Councillor Code of Conduct: <ul style="list-style-type: none"> a. must include the Councillor conduct principles; b. may establish processes for resolving an internal dispute between Councillors; c. may include any other matters which the Council thinks appropriate; and d. must be available for public inspection.
76D	Provides that a person who is, or has been a Councillor or member of a special committee must not misuse his or her position. <p>The term "misuse" includes:</p> <ul style="list-style-type: none"> a. making improper use of information; b. disclosing confidential information; c. directing or improperly influencing a member of Council staff; exercising or performing a power, duty of function without authority; and d. using public funds or resources in an improper or unauthorised manner.
76E	Prohibits Councillors from improperly directing or influencing staff in the performance of their duties.

Table 1

Note – Copies of sections 76B to 80 are provided in Appendix A.

The 2009-2013 Council Plan is a commitment to its residents and businesses. Identifying responsible leadership and governance as a key strategy for 2009-2013, the Council expresses the following intent:

"Council will represent the interests of its community and will conduct its affairs openly and with integrity, reflecting the highest level of good management and governance".

3. OBJECTIVES

The Whitehorse City Councillors, having been democratically elected in accordance with the Act, and having acknowledged the Councillor conduct principles set out in the Act, agree that the role of the Council acting as a whole includes:

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

4. COUNCILLOR BEHAVIOUR AND OBLIGATIONS

General

The Council affirms the following principles of behaviour:

- (a) each Councillor is aware of their responsibility to comply with the conduct principles specified in sections 76B and 76BA of the Act (refer Appendix A);
- (b) Councillors will treat all people with courtesy and respect, recognising that there are legitimate differences in opinions, race, culture, religion, language, gender and abilities. Councillors will:
 - i) always act honestly and with integrity;
 - ii) comply with all relevant federal, state and local laws;
 - iii) exercise reasonable care and be diligent in their duties;
 - iv) be consistent in their decision-making but treat all matters on individual merits;
 - v) always act with impartiality and in the best interests of the community as a whole;
 - vi) punctually attend all meetings of the Council and Council committees and participate in the decision making process, except when an apology or leave of absence is granted;
 - vii) treat fellow Councillors with respect, even when disagreeing with their views or decisions;
 - viii) make informed and reasonable decisions in the best interests of the community;
 - ix) be as informed as possible about the processes and strategic functions of the Council;
 - x) avoid situations that might create a conflict between their public and private roles;
 - xi) keep the community informed about the activities and plans of the Council and report on a regular basis;
 - xii) act in a reasonable and fair way and in a manner which is not discriminatory on the basis of gender, religion, race or contrary to the *Equal Opportunity Act 1995*;
 - xiii) treat all members of the community honestly, fairly and with dignity and in a way which does not cause offence or embarrassment to individuals or groups;
 - xiv) ensure the security of confidential information;
 - xv) make no commentary on confidential information to the media or any member of the public until Council determines the matter is no longer confidential;
 - xvi) undertake professional development and training; and
 - xvii) in recognition of the Council's commitment to open, accountable and transparent representation, disclose whether or not they reside within the municipality and of any material change to their place of principal residence, in accordance with the Local Government Act provisions.

5. COUNCILLOR STANDARDS

Councillors will behave in accordance with this Code at all times and should:

- a. maintain ethical and professional standards and discharge their duties with due care and diligence;
- b. endeavour to support the Council and fellow Councillors in their words, deeds and actions in particular in relation to any dealings with third parties;
- c. adopt a positive attitude to teamwork and respect for their fellow Councillors;
- d. maintain proper standards of dress and decorum, along with a high standard of public propriety; and
- e. not act in ways that may damage the Council or its ability to exercise good government.

6. COUNCILLOR/STAFF RELATIONSHIPS

To achieve its desired outcome the Council must work as a team with the Chief Executive Officer and other Council staff. For this teamwork to be successful Councillors need to:

- a. accept that their role is one of policy development and leadership, not management or administration;
- b. acknowledge that the Chief Executive Officer – in accordance with the provisions of the Act, is responsible for Council staff;
- c. acknowledge that they have no capacity to individually direct members of staff to carry out particular functions, or exercise powers or discretions in any particular way;
- d. refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others;
- e. respect the role of Council staff and treat them in a way that engenders mutual respect at all times; and
- f. act with courtesy towards Council staff and avoid intimidatory behaviour.

7. COMMUNITY ENGAGEMENT

One of the City's values in the Council Plan is ensuring its residents are both sufficiently informed and able to contribute to Council's decision making process.

As representatives of the community, Councillors need to be responsive to community views and to adequately communicate the attitudes and decisions of the Council. There may be times when a Councillor as an individual disagrees with a majority decision of the Council and wants the community to know that. Councillors are entitled to present their own views, particularly at election time, but in doing so, acknowledge that:

- a. as a member of the Council, there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;

- b. an overriding concern ought to be achieving a balance in the matters that are communicated and strive to achieve an outcome that presents the Council as effective and cohesive;
- c. should the media or other members of the public have obtained confidential Council information, Councillors should make no public comment; and
- d. the Mayor or some other specifically designated person is authorised to speak to the media and others on behalf of the Council to convey Council's official position on matters and/or issues before Council, in accordance with Council's media relations policy. (refer Clause 23 of this Code).

8. THE COUNCILLOR AS APPOINTED DELEGATE

As part of their representative role, Councillors may be elected or appointed to represent the Council on external organisations. Some appointments may be to other government committees or they may be as a community representative on a particular group.

It is important that Councillors:

- a. clearly understand the basis of their appointment;
- b. provide regular reports to the Council on the activities of the organisation; and
- c. make formal reports to the Council where they are acting as delegate of the Council to that external body.

9. DISCLOSURE OF INTERESTS

Councillors, Committee members and members of the Audit Committee will comply with all the provisions of the Act in regard to conflicts of interest (formerly referred to separately as pecuniary interests and conflicts of interest), whether of a direct or indirect nature. (Refer to Appendix A).

The Council notes that amendments to the Act late in 2008 introduced section 223 (4) which provides that a member of a committee hearing a submission pursuant to section 223 of the Act must conform to the disclosure requirements in section 79 of the Act. This provision therefore applies when a submission is heard by a special committee (with or without delegated powers) or an advisory committee and to all members of the committee whether they are Councillors, Council staff or any other person.

If a Councillor or member considers that he or she has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a special committee, he or she will comply with the Act's disclosure obligations immediately before the matter is considered. If the Councillor or member who has the conflict of interest will not be attending the relevant meeting, he or she must submit written notice of the conflict of interest to the Chief Executive Officer or Chairperson of the special committee in accordance with section 79 of the Act.

If a Councillor or member has a conflict of interest in a matter he or she will comply with the requirements of the Act and ensure he or she does not move or second the motion and that he or she leaves the room in which the meeting is being held immediately following the conflict of interest being disclosed.

In addition:

- a. Councillors and members will give early consideration to each matter to be considered by the Council, or special committee of which he or she is a member, to ascertain if they have a conflict of interest; and
- b. Councillors and members recognise that, while they may seek advice about a possible conflict of interest, the **legal onus rests entirely with each Councillor or member**;

10. ASSEMBLIES OF COUNCILLORS

The amendments to the Act late in 2008 introduced provisions relating to an "Assembly of Councillors", defined in section 76AA as:

"A planned or scheduled meeting of at least three Councillors and one member of Council staff which considers matters that are intended or likely to be:

- a. *the subject of a decision of the Council; or*
- b. *subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee—*

but does not include a meeting of the Council, a special committee of the Council, a club, association, peak body, political party or other organisation".

The Act also provides that the disclosure of conflict of interest provisions also apply to Assemblies of Councillors. Section 80A (1) of the Act provides:

1. at an Assembly of Councillors, the Chief Executive Officer must ensure that a written record is kept of:
 - a. the names of all Councillors and members of Council staff attending;
 - b. the matters considered;
 - c. any conflict of interest disclosures made by a Councillor attending under subsection (3).
2. The Chief Executive Officer must ensure that the written record of an Assembly of Councillors is:
 - a. kept for a period of four years after the date of the assembly; and
 - b. made available for public inspection at the offices of the Council for a period of 12 months after the date of the assembly.

3. If a Councillor attending an Assembly of Councillors knows that a matter being considered by the assembly is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest under section 79, the Councillor must, at the time set out in subsection (4), disclose to the assembly that he or she has a conflict of interest and leave the assembly whilst the matter is being considered by the assembly.

Penalty: 100 penalty units.

4. A Councillor must disclose the conflict of interest either:
 - a. immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
 - b. if the Councillor realises that he or she has a conflict of interest after consideration of the matter has begun, as soon as the Councillor becomes aware that he or she has a conflict of interest.

11. MANAGING CONFIDENTIAL INFORMATION

While one of the values in the Council Plan is openness and accountability, Councillors and members in their decision making process are privy to information which at times may be confidential. Under this Code, reference to confidential information includes sensitive matters discussed at briefings of Councillors and other Assemblies of Councillors.

Councillors and members will :

- a. be aware information of a confidential nature must not be communicated until it is no longer treated as confidential;
- b. be aware information relating to decisions of the Council and a Special Committee is to only be communicated in an official capacity by a designated officer of the Council;
- c. be careful that information concerning adopted policies, procedures and decisions of the Council and the Special Committee is conveyed accurately;
- d. be aware that they are only entitled to access information which is relevant to a matter before the Council or Special Committee or likely to come before the Council or Special Committee;
- e. be prudent in the use of information that they acquire in their role as a Councillor or member;
- f. be aware of any specific policies that the Council has on the use of Council information;
- g. be careful that information is not used in a way that can cause detriment to the Council;
- h. be aware that unauthorised disclosure of Council information, including misuse of intellectual property must not occur;
- i. be aware that improper use or release of confidential information can contravene section 77 of the Act; and
- j. recognise that the requirements of the *Information Privacy Act 2000* regarding access, use and release of personal information also apply to them as individuals.

Councillors and members need to ensure they are thoroughly familiar with the provisions of section 77 of the Act (refer Appendix B) which defines confidential information, and with the *Information Privacy Act 2000*.

Also attached as Appendix C is the summary of the privacy principles and Appendix D is the associated protocol for the City of Whitehorse.

12. REIMBURSEMENT OF OUT OF POCKET EXPENSES

Council policy, 'Councillor Entitlements and Reimbursement of Expenses' (Appendix E) sets out the out of pocket expenses which will be reimbursed to Councillors pursuant to Section 75 of the Act. The policy also clarifies the approval process for the reimbursement of out of pocket expenses incurred by a Councillor in undertaking his or her official duties.

In addition, Section 75A of the Act now provides that:

"a council may reimburse members of council committees for necessary out-of-pocket expenses incurred while performing duties as a committee member".

Accordingly this part of the Code also applies to members.

Councillors and members must ensure that:

- a. Council policy in regard to the claiming of out of pocket expenses is complied with; and
- b. only claims for expenses incurred while undertaking official duties as a Councillor or member acting on behalf of the Council are submitted for reimbursement.

13. CONFERENCE ATTENDANCE AND TRAVEL BY COUNCILLORS

Council policy, 'Conference Attendance and Travel by Councillors' (Appendix F) details the approval, expense payments and reporting requirements applicable to each Councillor wishing to attend a conference. If the conference is interstate or overseas, details must be provided within 14 days of conclusion of the travel for inclusion in the register giving details of all such travel by either Councillors or officers. Councillors should familiarise themselves with this policy and ensure compliance with all aspects.

14. GIFTS, FAVOURS, HOSPITALITY

Part of the role of Councillor requires attendance at functions, receptions and visits. This may involve meeting or hosting people from different cultures. A Councillor needs to be aware that:

- a. he or she should not accept directly or indirectly any fee, gift or benefit for themselves, family member or for any other person or body for anything done or action taken in pursuit of their Councillor duties; and
- b. gifts presented to an individual in a public forum should be regarded as a gift to the Council and should be accepted accordingly in a speech (followed by a letter) of thanks on behalf of the Council, making it clear the gift is being accepted to become Council property and not a possession of the individual. Gifts should be handed to the Chief Executive Officer who will decide where these gifts should best be displayed.

(Note - Section 62B of the Act applies to receiving gifts during the "donation period" (as defined). (Refer to Appendix H).

In some situations it may be offensive to refuse the offer of a gift, particularly where it is of moderate value.

The gift may have cultural significance and/or be intended as an expression of appreciation. An example would be identical gifts given to all Councillors and senior staff by visitors from the Council's Sister City of Matsudo, where expressing friendship is primary, and the value of the gift is secondary: such gifts may be accepted if they are of a token, promotional or advertising nature given to all present at a function, where there is clearly no suggestion of personal obligation.

Councillors should exercise judgement and only accept gifts on behalf of the Council that are appropriate to the circumstance.

The Council has a supply of corporate gifts which are to be issued by the Mayor and/or the Chief Executive Officer as appropriate.

The Council notes that in amendments to the Act late in 2008, section 78C was introduced which specifically links an "applicable gift" (as defined) and a Councillor with an "indirect interest" (also defined). Copies of relevant sections of the Act are provided in Appendices A, E, G and H.

15. USE OF COUNCIL PROVIDED RESOURCES – (NORMAL OPERATION)

Council policy, 'Councillor Entitlements and Reimbursement of Expenses' (Appendix E) details the facilities and support that will be provided to Councillors and members to assist them to undertake their role. Councillors will familiarise themselves with any changes required during Election Periods to ensure there is no exposure to the perception that Council resources are used for electoral purposes.

Councillors must ensure that:

- a. Council policy in regard to the provision of facilities and support is complied with;
- b. Council assets, including goods, money, intellectual property, computer, mobile telephones, telephone lines provided by the Council, fax machines and the services of Council employees or contractors, must not be used for personal gain. This includes transcription of computer software programs regardless of whether or not the programs are protected by copyright and other intellectual property of the Council;(please also refer to Policy on Councillor entitlements and Reimbursement of expenses Appendix E)
- c. Council property and merchandise is not removed from Council premises without authorisation. If, for business reasons, removal is necessary, then appropriate approvals must be first obtained;
- d. Council assets while in their control are maintained and secured and that such assets are not misused;
- e. Council resources are economically and effectively used and only in the course of official duties; and
- f. use of Council provided computer equipment is in accordance with the IT Security Policy WCC-ITS09 and the E mail and Internet Usage Policy WCC-EIU09.

16. ACCESS TO COUNCIL BUILDINGS

Meeting rooms and facilities for Councillors are provided in the Civic Suite. An office for the Mayor is provided in the Executive area of the Civic Centre.

In their role, Councillors are entitled to full access to the Councillor Lounge located in the Civic Suite. Other rooms in the complex are used during the day and should a Councillor require use, a booking needs to be made via the Whitehorse Centre. If such a booking is requested at short notice it needs

to be understood the room may have already been allocated, and the Councillor may be requested to select another room or another date.

Councillors have access to other Council buildings and facilities at the same level as any other member of the public, during business hours and on payment of the required fee or charge if the entry is for personal use.

Councillors will be issued with computerised access passes to the Civic Offices to allow them to pass through the foyer to the office area during business hours only, and to the Civic Suite at all times.

17. DISPUTE RESOLUTION AND ALLEGED BREACHES OF THE CODE

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

This dispute resolution procedure is intended to be used when Councillors have been unable to resolve an interpersonal conflict and where the situation is unduly affecting the operation of the Council.

It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and committee meetings.

Councillors have a responsibility to try every avenue possible to resolve such disputes. The Mayor should be involved as soon as practically possible after a Councillor is aware that he or she is in dispute with another Councillor. As leader of the Council team, the Mayor should facilitate discussion between the parties in dispute.

If reconciliation of the dispute is not possible after Mayoral intervention, it is the responsibility of the Mayor to seek assistance from an external mediator to resolve the dispute, preferably with the active support of parties to the dispute, who must be informed of such a decision in any circumstance.

The Mayor may request the Chief Executive Officer to provide or arrange such assistance, and should consult with the Chief Executive Officer about the nature and extent of the mediation required.

The Council notes that in relation to a formal dispute resolution process, Division 1B of the Act now provides for the establishment of Councillor Conduct Panels to hear disputes between Councillors and allegations of misconduct by Councillors.

In this context, section 81B (1) provides that an application for a panel hearing made by made by:

- a. the Council, following a resolution of the Council to make an application to a Councillor Conduct Panel under this section in respect of a Councillor's conduct; or
- b. a Councillor; or
- c. a group of Councillors.

18. PROCEDURES - BREACH OF THIS CODE

Alleged Breaches

Alleged breaches of the Code should be reported to the Mayor and the Chief Executive Officer in writing. The Mayor must implement the actions within this procedure. In the event that the Mayor is alleged to have breached the Code, another Councillor determined by resolution of the Council must fulfill the role.

Any alleged crime, will be referred to the appropriate authority (e.g. Police, or Local Government Victoria) for investigation or further investigation.

The mediation process

In the first instance, when an issue arises, the Mayor (or another appointed Councillor) will attempt to mediate a resolution.

If this process does not resolve the matter, the Mayor (or another appointed Councillor) will refer the matter to an informal gathering of Councillors.

If after due consideration there is no satisfactory outcome, the Council will, by resolution, access an agreed mediation process.

Where the Council resolves to consider a mediation process, it may:

- a. approve the appointment of an independent and suitably qualified mediator or conciliator who is acceptable to the councillors who are parties to the dispute. In selecting the mediator or conciliator, the Council may seek advice from the Municipal Association of Victoria or the Victorian Local Governance Association; or
- b. decide that a mediator or conciliator will not be appointed, providing:
 - i) the dispute is limited to matters of policy; or
 - ii) an alternative approach is considered more appropriate.

Notwithstanding these provisions, the Council will not commence or conduct a dispute resolution process during any election period.

At the conclusion of any dispute resolution process, the Council will consider a report which includes:

- a. an report from the mediator or conciliator;
- b. the recommendations in the report;
- c. the actions to be take as a result of the report; and
- d. an estimate of the cost to the Council of conducting the mediation process.

Natural justice

The principles of natural justice must be observed during the investigation of an alleged breach, there is a right to a fair hearing and a decision-maker who is impartial. The Councillor who is subject of an investigation must be given all relevant information in regard to the allegations and an opportunity to respond and be supported if he or she desires.

Any individual who alleges a breach of the Code must not be disadvantaged because of such action.

All deliberations regarding alleged breaches of the Code should be conducted in confidentially.

Application of the Code

The Code does not override, prevail over, or amend legislation applicable to the roles, responsibilities, and duties of Councillors.

Advice

Councillors are individually responsible for seeking relevant advice from the Chief Executive Officer or Manager of Civic Services as to the application of the Code.

Code Monitoring and Compliance Responsibilities

The Mayor and the Council.

Guidance

Assistance and advice is available from the Chief Executive Officer and Manager of Civic Services

19. WHISTLEBLOWERS PROTECTION ACT 2001

The City of Whitehorse is committed to the aims and objectives of the *Whistleblowers Protection Act* 2001. It does not accept improper conduct by its Councillors, or staff, nor reprisals against those who come forward to disclose such conduct.

A Councillor who knows or has good reasons to suspect any fraud, corrupt, criminal or unethical conduct of another Councillor should be free to report such behaviour.

Clear guidelines and procedures are in place to facilitate disclosure in the public interests. Councillors should be familiar with these guidelines which are available at each Council workplace and appear on Council's website.

19 A COUNCILLOR/POLITICAL ACTIVITY

It is acknowledged that it is a democratic right of Councillors to seek political or other office in pursuit of their personal ambitions. Councillors, in the pursuit of their goals, will abide by the requirements and provisions of the Local Government Act relating to their Oath of Office, Councillor Conduct Principles, misuse of position and the overall obligations in the Councillor Code of Conduct. This requires Councillors to act impartially and in the best interests of the community to avoid conflicts between public duty and personal interests, not to obtain a personal advantage for themselves or others and not to misuse public resources. The positive public image of and confidence in the office of Councillor is to be secured and preserved at all times.

In the event that there is a conflict of interest between public duty and personal interests, Councillors must disclose that conflict to the Mayor and to the Council. If a Councillor formally nominates (with the Electoral Commission) for a Federal or State parliamentary election, leave of absence should be sought by the Councillor and considered by Council.

PART 2 – SPECIFIC PROVISIONS - ELECTION PERIODS

20. USE OF COUNCIL RESOURCES DURING ELECTION PERIODS

Council provided resources must not be used in a way that would influence the way people vote in elections, except in regard to supporting the actual election process. The Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during a Council election. This includes a commitment to comply with Council's procedures in addition to the requirements of the Act. (Refer to Election Period Policy – Appendix G).

These requirements can be summarised as follows:

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

- h. equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes.

21. ELECTORAL MATTER – ELECTION PERIODS

The Council will ensure that it complies with section 55D of the Act, which requires that a council does not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

The following definitions from the Act are noted:

Section 3(1) **"electoral advertisement, handbill, pamphlet or notice"** means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting;

"publish" means publish by any means including by publication on the Internet;

Section 3(1A) **"electoral matter"** means 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 returning officer for the purposes of conducting an election;

Section 3 (1B) Without limiting the generality of the definition of "electoral matter", matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

(a) the election; or

(b) a candidate in the election; or

(c) an issue submitted to, or otherwise before, the voters in connection with the election.

22. CARETAKER PROVISIONS DURING ELECTION PERIOD

Note: These provisions apply to a general election period and any by-election period. (given that at the City of Whitehorse, Councillors are elected by proportional representation, in most cases, vacancies will be filled by a "countback", and there will be no election.

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

Council Decision Making

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind the incoming council including a commitment to comply with the requirements of section 93A of the Act relating to "Major Policy Decisions" and the policies specified below in relation to "Significant Decisions".

Major Policy Decisions

Section 93A of the Act prohibits the making of “Major Policy Decisions” during the election period, which is from the last day on which nominations for the election can be received until 6:00 pm on the Election Day.

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

- a. relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;
- b. to terminate the appointment of a Chief Executive Officer under section 94;
- c. to enter into a contract the total value of which exceeds whichever is the greater of \$150,000 (for the purchase of goods or services) or \$200,000 for the carrying out of works or 1% of the Council's revenue from rates and charges in the preceding financial year; or
- d. to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$150,000 or \$200,000 (refer {c} above) or 1% of the Council's revenue from rates and charges in the preceding financial year.

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

Significant Decisions

In addition to the decisions specified in section 93A of the Act, the Council will avoid making other decisions during the Election Period that are of a significant nature and which would unnecessarily bind an incoming council. “Significant Decisions” include:

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

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

Caretaker Statement

During the Election Period, the Chief Executive Officer will ensure that a “Caretaker Statement” is included in every agenda submitted to the Council or to a special committee of Council for a decision. The “Caretaker Statement” will appear at the start of the agenda and will state that:

“The recommended decisions on all reports on this agenda do not fall within the definition of a Major Policy Decision as outlined in Section 93A of the Act and Council’s Election Period Policy”.

Should any report be presented to the Council or a Special Committee during an Election Period, which it is considered does fall within Section 93A of the Act, this will be clearly indicated with a statement both at the commencement of the agenda and at the heading of any such report.

23. MEDIA RELATIONS POLICY

Purpose

- 1 Media relations are a significant aspect of the Council’s operations. The media is an important source of information and analysis for citizens of Whitehorse and a significant means of communications.
- 2 The Council’s media relations can be proactive or reactive, and can be initiated by the Council or in response to media initiatives. In both cases the nature of the relationship has a strong influence on the media coverage. This document summarises the policies of the Council with respect to media relations, and how they should be developed and conducted.

Objectives

- 3 To develop effective media relations in the dissemination of Council information.
- 4 To determine who will represent the Council in speaking to the media.

Scope

- 5 All print and electronic media; local, metropolitan and national newspapers, magazines; industry newsletters; television and radio.

Policies

- 6 The City of Whitehorse will communicate openly with the media in order to maximise the public knowledge and understanding of our policies, activities and services.
- 7 The City of Whitehorse will be consistent and clear on who will represent the Council and speak on behalf of the Council to the media. This minimises confusion and ensures an efficient liaison service is provided.
- 8 The media are entitled to receive all information that is public information, that is, all information which the constituents of the City of Whitehorse are entitled to receive.

- 9 All comments to the media shall be presented positively and reflect the values of the City.

Procedures

- 10 The implementation of the Council's policies on media relations has implications at several levels. The Council has adopted the following guidelines.

Media

- 11 To continue distributing media releases to local media outlets each week.
- 12 To continue regular meetings with journalists from the *Whitehorse Leader* and the Mayor and Chief Executive Officer, as appropriate, to brief journalists on key issues.
- 13 For major issues a specific media strategy will be prepared, and a spokesperson selected by the Mayor and Chief Executive Officer.
- 14 All media enquiries are to be directed to the Communications Department and an appropriate spokesperson nominated to respond to questions.

Publications

- 15 To continue to produce or review all printed material ensuring accurate, timely information is distributed to the public including all brochures, information sheets and regular publications including:
- Council Vision
 - Council Plan
 - Annual Budget
 - Annual Report
 - Rates Brochure
 - Community Directory
 - Annual Calendar
 - Whitehorse News

Advertising/Public Notices

- 16 To continue processing the Council's tender advertisements and Planning Scheme Amendments through the Purchasing & Tendering Unit and the Strategic Planning Unit. Processing of Public Notices to be placed in the *Whitehorse News*, *The Age* or the Victorian Government Gazette as required by the Act. All other advertisements to be processed by the Communications Department for inclusion in the Council's regular Page 6 column in the *Whitehorse Leader*.

Civic Centre Reception

- 17 To provide information held on display at Civic Centre reception and to maintain an accessible information stand.

Internet

- 18 To continue regularly updating the Councils Internet website.

Communication with Councillors

- 19 To continue communicating with Councillors on key issues.

24. PENALTIES

In many instances, the Act provides that a breach of the Act is an offence and subject to a penalty. The amount of the penalty is described as a “penalty unit”.

25. SANCTIONS

The Council may, by resolution, impose sanctions (ie: non statutory penalties) on Councillors or Members for a breach of this Code.

A sanction can only be determined by resolution of the Council and may include;

- a. requiring the Councillor to apologise to the person concerned;
- b. withdrawal or withholding the use of any Council provided facilities, equipment or privileges;
- c. revoking any Chairperson role held by the Councillor; or
- d. revoking any role as a delegate to an external organisation.

26. HUMAN RIGHTS CHARTER COMPLIANCE

This code has been reviewed for Human Rights Charter compliance.

APPENDIX A - COUNCILLOR CONDUCT PRINCIPLES, COUNCILLOR CODE OF CONDUCT, MISUSE OF POSITION, IMPROPER DIRECTION AND IMPROPER INFLUENCE

(Sections 76B, 76BA, 76D, 76E, 77A, 77B, 78, 78A, 78B, 78C, 78D, 79, 79A, 79B, 79C, 79D and 80 of the *Local Government Act 1989*)

76B – Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must:

- a. act with integrity; and
- b. impartially exercise his or her responsibilities in the interests of the local community; and
- c. not improperly seek to confer an advantage or disadvantage on any person.

Section 76BA – General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- a. avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- b. act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- c. treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- d. exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- e. endeavour to ensure that public resources are used prudently and solely in the public interest;
- f. act lawfully and in accordance with the trust placed in him or her as an elected representative;
- g. support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

76D Misuse of position

(1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position:

- a. to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b. to cause, or attempt to cause, detriment to the Council or another person.

Penalty: 100 penalty units.

76E Improper direction and improper influence

- (1) A Councillor must not improperly direct or improperly influence, or seek to improperly direct or improperly influence, a member of Council staff in the exercise of any power or in the performance of any duty or function by the member.
- (2) A Councillor must not direct, or seek to direct, a member of Council staff:
 - a. in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
 - b. in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
 - c. in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under another Act; or
 - d. in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.
- (3) This section does not apply to a decision of the Council or a special committee that is made within the powers, duties or functions conferred under this or any other Act.

77A Direct and indirect interests

1. A relevant person has a conflict of interest in respect of a matter if the relevant person has a direct interest or indirect interest in the matter.
2. A relevant person has a direct interest in a matter if the relevant person has an interest of a kind described in section 77B.
3. A relevant person has an indirect interest in a matter if the person has:
 - a. a close association as specified in section 78; or
 - b. an indirect financial interest as specified in section 78A; or
 - c. a conflicting duty as specified in section 78B; or
 - d. received an applicable gift as specified in section 78C; or
 - e. become an interested party as specified in section 78D.
4. A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest of the relevant person is so remote or insignificant that the direct interest or indirect interest could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter.
5. A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest the relevant person holds is one held as a resident, ratepayer or voter and the interest:
 - a. is held in common with other residents, ratepayers or voters; and
 - b. does not exceed the interests held by other residents, ratepayers or voters.

77B Direct interest

1. A person has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.
2. Without limiting subsection (1), a person has a direct interest in a matter if:
 - a. there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms if the matter is decided in a particular way;
 - b. there is a reasonable likelihood that the residential amenity of the person will be directly affected if the matter is decided in a particular way.

78 Indirect interest by close association

1. In this section:

daughter means a biological daughter, stepdaughter, adopted daughter, or female child for whom the person has custodial responsibilities;

direct relative means the spouse, domestic partner, son, daughter, mother, father, brother or sister of the person;

domestic partner of a person means:

- a. a person who is in a registered relationship with the person; or
- b. an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person:
 - i) for fee or reward; or
 - ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

family member means:

- a. a spouse or domestic partner of the person; or
- b. a son, daughter, mother, father, brother or sister that regularly resides with the person;

relative means:

- a. a direct relative of the person;
- b. a direct relative of a person who is the direct relative of the person;

son means a biological son, step son, adopted son or male child for which the person has custodial responsibilities.

2. A person has an indirect interest by close association in a matter if:
 - a. a family member of the person has a direct interest or an indirect interest in a matter; or
 - b. a relative of the person has a direct interest in a matter; or
 - c. a member of the person's household has a direct interest in a matter.
3. For the purposes of the definition of **domestic partner** in subsection (1):
 - a. **registered relationship** has the same meaning as in the *Relationships Act 2008*; and
 - b. in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the *Relationships Act 2008* as may be relevant in a particular case; and
 - c. a person is not a domestic partner of another person only because they are co-tenants.

78A Indirect interest that is an indirect financial interest

1. A person has an indirect financial interest *in a matter* if the person is likely to receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.
2. Without limiting subsection (1), a person has an indirect financial interest that is a conflict of interest if:
 - a. the person has a beneficial interest in shares of a company or other body that has a direct interest in the matter, except in the circumstances specified in subsection (3);
 - b. the person is owed money from another person and that other person has a direct interest in the matter.
3. If a person, and family members of the person, hold shares in a company or body that has a direct or indirect interest in a matter with a combined total value that does not exceed \$10 000 and the total value of issued shares of the company or body exceeds \$10 million, the person's indirect financial interest is not a conflict of interest.
4. Subsection (2)(b) does not apply if the other person is an authorised deposit-taking institution.
5. For the purposes of determining the value of shares under this section, the share value is to be taken from:
 - a. the close of business on the most recent of 30 June or 31 December; or
 - b. if the person has lodged an ordinary return since the most recent of 30 June or 31 December, the close of business on the date the return was submitted.

78B Indirect interest because of conflicting duties

1. A person has an indirect interest in a matter because of a conflicting duty if the person:
 - a. is a manager or a member of a governing body of a company or body that has a direct interest in a matter;

- b. is a partner, consultant, contractor, agent or employee of a person, company or body that has a direct interest in a matter;
 - c. is a trustee for a person who has a direct interest in a matter.
2. A person has an indirect interest in a matter because of a conflicting duty if the person held a position or role specified in subsection (1) and, in that position or role, dealt with the matter.
3. A person does not have an indirect interest because of a conflicting duty if:
 - a. the person is only an employee in the service of the Crown or of a body established by or under any Act for a public purpose and the person has no current or expected responsibilities as that employee in relation to a matter;
 - b. the person only holds a position in a not-for profit organisation for which the person
 - i) was appointed or nominated to that position by the Council; or
 - ii) was appointed to the relevant special committee of the Council to be a representative of the not-for-profit organisation;
 - c. the person is only a Councillor who holds a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Councils;
 - d. the person only holds a position that has been prescribed for the purposes of this section.

78C Indirect interest because of receipt of an applicable gift

1. In this section, ***applicable gift*** means one or more gifts with a total value of \$200 or more, received from a person or persons specified in subsection (2), in the 5 years preceding the decision or the exercise of the power, duty or function.
2. A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from:
 - a. a person who has a direct interest in the matter; or
 - b. a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
 - c. a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.

78D Indirect interest as a consequence of becoming an interested party

A person has an indirect interest in a matter if the person has become an interested party in the matter by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.

79 Disclosure of conflict of interest

1. If a Councillor or member of a special committee has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or the special committee, the Councillor or member must:
 - a. if he or she intends to be present at the meeting, disclose the conflict of interest in accordance with subsection (2);

- b. if he or she does not intend to be present at the meeting, disclose the conflict of interest in accordance with subsection (3).
2. A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest:
 - a. by either;
 - i) advising the Council or special committee at the meeting of the details required under paragraphs (b) and (c) immediately before the matter is considered at the meeting; or
 - ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
 - b. classifying the type of interest that has given rise to the conflict as either:
 - i) a direct interest; or
 - ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, or 78D; and
 - c. describing the nature of the interest; and
 - d. if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a)(ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
3. A Councillor or member of a special committee who has a conflict of interest and will not be attending the meeting of Council or special committee must make a full disclosure of that interest to the Chief Executive Officer or Chairperson that:
 - a. is in writing; and
 - b. classifies the type of interest that has given rise to the conflict as either:
 - i) a direct interest; or
 - ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, or 78D; and
 - c. describes the nature of the interest.
4. If a Chairperson has been given a written disclosure under subsection (3), he or she must give the written disclosure to the Chief Executive Officer.
5. The Chief Executive Officer must:
 - a. keep written disclosures given to him or her under this section in a secure place for 3 years after the date the Councillor or member of a special committee who made the disclosure ceases to be Councillor or member of a committee; and
 - b. destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.
6. While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:
 - a. leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and

- b. remain outside the room and any gallery or other area in view or hearing of the room.
7. The Mayor or the Chairperson of the special committee must cause the Councillor or member of a special committee to be notified that he or she may return to the room after:
- a. consideration of the matter; and
 - b. all votes on the matter.
8. If a Councillor or member of a special committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting:
- a. the declaration of the conflict of interest; and
 - b. the classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.
9. Unless section 80 applies, a Councillor or member of a special committee who fails to comply with this section is guilty of an offence.

Penalty: 100 penalty units.

79A Conflict of interest defence

It is a defence to a prosecution under section 79(9), 80A(3), 80B(2) or 80C(2) if the relevant person proves that he or she did not know:

- a. that he or she had a conflict of interest in relation to the matter; or
- b. that a matter in respect of which he or she had a conflict of interest was considered or discussed at the relevant meeting.

79B Conflicting personal interest

1. This section does not apply to a Councillor or member of a special committee who has a conflict of interest in the matter.
2. If a Councillor or a member of a special committee considers that he or she has a personal interest in relation to a matter that is in conflict with his or her public duty in relation to the matter, the Councillor or member may, immediately before the matter is considered at the relevant meeting, apply to the Council or special committee to be exempted from voting on the matter.
3. If a Councillor or member of a special committee makes an application under subsection (2), he or she must give reasons in support of the application.
4. A Council or special committee may consent to an application made under subsection (2) and must not unreasonably withhold consent.
5. If a Council or special committee consents to an application under subsection (4), sections 79(6), 79(7), 79(8) and 79(9) apply as if the personal interest that is the subject of an application under subsection (2) were a conflict of interest specified under this Act.

79C Certain situations where Councillor taken to not have a conflict of interest

1. A Councillor is taken to not have a conflict of interest for the purposes of this Division if the matter relates to:

- a. the nomination or appointment by the Council of the Councillor to a position for which the Councillor will not be remunerated;
 - b. the election of the Mayor under section 71 or the appointment of an acting Mayor under section 73(3);
 - c. a decision in relation to the payment of allowances to the Mayor or Councillors under section 74 or 74C(2);
 - d. the adoption of a policy in relation to the reimbursement of expenses under section 75A;
 - e. the adoption of a Councillor Code of Conduct under section 76C;
 - f. an application to a Councillor Conduct Panel or VCAT under Division 1B;
 - g. an application for an exemption under section 80;
 - h. the appointment of members and Chairpersons of special committees;
 - i. a resolution that has the effect of making the Councillors eligible or ineligible for the superannuation guarantee under taxation legislation.
2. If a budget or revised budget to be approved by a Council includes funding for a matter in respect of which a Councillor has a conflict of interest the Councillor is taken to not have a conflict of interest for the purposes of approving the budget or revised budget if:
- a. the Council approved the matter and the proposed funding previously; and
 - b. the Councillor disclosed the nature of the conflict of interest under this Division when the decision in respect of the funding was originally considered and made.

79D Person may make submission despite conflict of interest

1. Subject to subsection (2), a relevant person who has a conflict of interest in a matter and who has made a written submission under section 223 in respect of the matter, may present his or her submission under section 223(1)(b) to the Council or committee of the Council.
2. The relevant person who has a conflict of interest in a matter must not be at the meeting of the Council or committee of the Council any longer than is required for the person to be heard in support of the person's written submission

80 Exemption by Minister

1. Despite section 79:
 - a. a Council may apply, in writing, to the Minister for an exemption of any Councillor from any or all of the provisions of section 79 if the Council is of the opinion that the transaction of any Council or special committee business would be impeded because of the number of Councillors affected by section 79;
 - b. a Chief Executive Officer of a Council may apply, in writing, to the Minister, after receiving written declarations of conflicts of interest from a majority of Councillors, for an exemption of those Councillors from any or all of the provisions of section 79.
- 1A After reviewing an application received from a Council or a Chief Executive Officer, the Minister may require the Council or Chief Executive Officer to provide additional information in respect of the application, including copies of the written declarations of conflicts of interests made by Councillors under section 79.

- 1B In considering an application made by a Council or Chief Executive Officer, the Minister must have regard to:
- a. the extent of the conflicts of interest of the Councillors; and
 - b. the public interest.
2. The Minister may, after considering an application under subsection (1B), exempt in writing a Councillor from any or all of the provisions of section 79 for an unlimited or specified period, subject to any conditions the Minister thinks fit.
3. The Minister may revoke an exemption.

APPENDIX B - CONFIDENTIAL INFORMATION

(Section 77 of the *Local Government Act 1989*)

77 Confidential information

1. A person who is, or has been, a Councillor or a member of a special committee, must not release information that the person knows, or should reasonably know, is confidential information.
2. For the purposes of this section, information is **confidential information** if:
 - a. the information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
 - b. the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
 - c. subject to subsection (3), the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.
3. Confidential information referred to in subsection (2)(c) ceases to be confidential at the expiry of the period of 50 days after the designation is made unless subsection (2)(a) or (2)(b) applies to the information.

APPENDIX C - SUMMARY OF STATUTORY PRIVACY PRINCIPLES

The privacy principles can be found in the *Information Privacy Act 2000* ('information privacy principles') and the *Health Records Act 2001* ('health privacy principles').

The privacy principles apply to 'personal information' and 'health information'. Personal information is information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Health information is information about an individual's physical, mental or psychological health or disability, or information that is collected in providing a health service (eg disability or aged care service).

In summary, the privacy principles are as follows:

- **Collection:** Council must only collect personal/health information that is necessary for one or more of its legitimate functions and, at or before the time of collection, must take reasonable steps to ensure the individual is aware of certain matters, including the purpose of collection and to whom the information is usually disclosed. Council must only collect 'sensitive' information (eg racial, political, religious, criminal, sexual) with consent.
- **Use and Disclosure:** Council may only use or disclose personal/health information for the same purpose for which it was collected, or for permitted 'secondary purposes', such as where:
 - the secondary purpose is related to the primary purpose of the collection, and the use or disclosure is within the reasonable expectations of the person to whom the information relates; or
 - the person to whom the information relates consents to it;
 - it is required or authorised under law; or
 - it is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare, or a serious threat to public health, public safety, or public welfare.
- **Data Quality:** Council must take reasonable steps to ensure personal/health information is accurate, complete and up to date.
- **Data Security:** Council must take reasonable steps to protect personal/health information from misuse, loss and unauthorised access.
- **Openness:** Council must have a readily available privacy policy.
- **Access and Correction:** Council must provide access to information about an individual on request by that individual except in specified circumstances, and must correct such information on request.
- **Unique Identifiers:** Council must not use unique identifiers unless necessary.
- **Anonymity:** Wherever lawful and practicable, individuals must have the option of not identifying themselves in dealings with Council.
- **Transborder Data Flows:** Council may only transfer personal/health information outside Victoria in circumstances where it will have appropriate privacy protection.

APPENDIX D – PROTOCOL- COUNCILLOR ACCESS TO COUNCIL FILES AND DOCUMENTATION

The process for handling Councillor requests for access to Council files, documents and information is as follows:

- a. the Councillor enters a request through the Councillor portal specifying the reason for seeking access;
- b. the request is forwarded to the relevant Manager, who will consider the request, and consult with relevant officers in determining whether access may be granted;

In doing so, the Manager will consider the following:

- (i) does the Councillor have a common law right to access the file? For example, is the file relevant to an issue before, or likely to come before the Council and the representative functions of the Councillor?
 - (ii) if not, would providing access breach privacy?
 - does the file contain personal or health information of others ?
 - is the information being disclosed for the same purpose it was collected ?
 - is it related to this purpose and the person would reasonably expect access to be given ?
 - has the person given his/her consent to disclosure ?
 - can any personal or health information be deleted ?
 - (iii) if there is a privacy concern, could the file be made available under FOI or through other legislation ?
- c. if it is appropriate to provide access, the Manager or his/her delegate will arrange a date and time for inspection. The Councillor must not remove any documents but may request copies, which request will be considered by the Manager. Details of the inspection will be entered into the Councillor request management system;
 - d. if access cannot be provided, the Manager will advise the Councillor accordingly and provide reasons. The Councillor may ask the Manager to reconsider his/her decision. The Manager will then consult with the Chief Executive Officer and respond to the Councillor with the final decision;
 - e. if the information sought relates to a topical issue which is sensitive and/or controversial and would impact on all Councillors, the Manager will consult with the Chief Executive Officer in regard to the information being given to all Councillors; and
 - f. Councillors must not make improper use of information or breach privacy or confidentiality in relation to information provided to them.

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APPENDIX E – POLICY - COUNCILLOR ENTITLEMENTS AND REIMBURSEMENT OF EXPENSES

PURPOSE

- 1 To identify Councillor entitlements and reimbursement of expenses.
- 2 To clarify the approval process for reimbursement of expenses incurred by Councillors while undertaking their duties.

OBJECTIVES

- 3 To establish the entitlement for a Councillor to have necessary out of pocket expenses incurred as a result of being a Councillor, either reimbursed or paid direct by Council.
- 4 To identify facilities and support that will be provided to Councillors to assist them to undertake their role.
- 5 The basic test to determine whether or not an expense is lawful/lawfully incurred is whether the expenditure is 'necessary or appropriate for the purposes of achieving the objectives of Council having regard to any relevant Act, regulations, Ministerial guidelines or Council Policies.'

Where:

- this policy is satisfied the expense is 'necessary' the expense may be paid direct by Council;
- a Councillor has incurred a 'necessary' out of pocket expense they may be reimbursed by Council.

EXPENSES

- 6 Section 75 of the Local Government Act 1989 specifies that a Council must reimburse a Councillor for expenses if the Councillor:
 - applies in writing to Council for the reimbursement of expenses; and
 - establishes in the application to Council that the expenses were reasonable bona fide Councillor out- of- pocket expenses incurred while performing duties as a Councillor.
- 7 Any claims for expense reimbursement must be justified by Councillors and should be in writing supported by receipt or other suitable documentation.
- 8 Council will not reimburse Councillors for any infringements incurred for road traffic or parking violations.

SCOPE

- 9 The facilities and services, as identified in this policy are not available for use by members of a Councillor's family. (The Chief Executive Officer (CEO) has discretion to consider an application, if proven that the use is directly related to some aspect of a Councillor's official role or civic duty.)
- 10 Claims for facilities and expenses other than those expressed in this policy will be subject to a Council resolution. Council policy on Conference Attendance and Travel by Councillors covers conference attendance and interstate/overseas travel.

CIVIC SUPPORT AND EXPENSES

11 Family Care Expenses

- 11.1 "Family Care Expenses" are defined as hourly fees, agency booking fees, reasonable travelling expenses for a carer other than an immediate family member of the Councillor. The care of family members is the responsibility of individual Councillors. However, in certain circumstances Councillors may be able to seek reimbursement for family care expenses. Expenses for bona fide family care services are payable, if claimed, for care of a child, elderly or disabled dependent when a Councillor attends:
- meetings of the Council or its Committees;
 - meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or Council;
 - meetings arising as a result of a Councillor being appointed by the Council to an external body;
 - a meeting, function or other official role as a representative of the Mayor or the Council;
- 11.2 Childcare costs are not eligible for reimbursement if paid for a service provided by a person who is immediate family (eg partner, mother/father, sister/brother or sister in law/brother in law) or normally or regularly lives with the Councillor.
- 11.3 For the purposes of this policy, a child shall be defined as up to, but not including 16 years of age.
- 11.4 Claims for family care expenses are to be submitted on a monthly basis. Each family care expense claimed shall be substantiated by a receipt from the caregiver showing the dates and times care was provided, and the Councillor shall show why the care was needed on each occasion.

12 Facilities and Expenses for Councillors with Disabilities

- 12.1 For any Councillor with a disability, the CEO should assess and approve the reasonable support required by way of additional facilities and expenses in order to allow that Councillor to perform his or her civic duties.

13 Communication Equipment

- 13.1 Each Councillor is entitled to the following home/workplace facilities and may choose to be allocated:
- a telephone connection separate to the private telephone of the Councillor for use for a phone, phone/fax or Internet connection
 - a mobile telephone, or Blackberry device
 - a Personal Computer with e-mail and Internet access, and modem and printer.
- 13.2 The Council will pay all connection fees, rental charges and all Council business call charges, with accounts being sent directly to Council. In the case of mobile phones, it will be at Council's discretion whether to repair or replace damaged phones. If a phone is stolen, the Councillor should immediately report the theft to the Civic Services department, and to the police if the theft is discovered outside working hours.
- 13.3 Councillor issued mobile devices are to be used for related Council business activities but it is accepted that, on occasions, reasonable incidental personal calls will be made. A

telephone account summary will be provided on a monthly basis at the end of each month for each individual Councillor and copies of telephone accounts will be available upon request.

- 13.4 The equipment remains the property of the Council and is recorded on Council's Assets Register and must be returned at the end of a Councillor's term of office. The Councillor may however elect to purchase the equipment at an appropriate level set by Council at that time.

14 Insurance

14.1 Councillors are covered under the following Council insurance policies on a 24-hour basis, while discharging the duties of civic office including attendance at meetings of external bodies as Council's representatives:

- Public liability
- Professional indemnity
- Councillors and Officers liability
- Personal Accident (accompanying partners are also covered)

14.2 The Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's insurers, whether defended or not.

15 Mail

15.1 Each Councillor will be entitled to post, through the Council mailing system and utilising Council supplied stationery, any items which relate to Council business and annual corporate Christmas Cards. No type of election material is to be posted at Council expense by Councillors.

16 Room Use

16.1 Meeting rooms owned and controlled by the Council can be booked by Councillors free of charge for meetings, interviews and other functions associated with their role as Councillors (other than for election purposes). In the event Council does not have a suitable facility in the area, such as for ward meetings, Council will meet the reasonable costs of a suitable venue but the Councillor takes responsibility for leaving the room in accordance with any requirements of the venue owner, if there are no Council staff at the meeting.

16.2 Free use of meeting rooms for use by Councillors does not include community or other groups who would be subject to Council's policy on the use of Council facilities. Community and other organisations where Councillors are nominated as Council representative or delegates to these groups are not entitled to free use of Council facilities.

17 Stationery and Secretarial Support

- 17.1 Councillors will be supplied with:
- Christmas Cards and envelopes of standard size
 - business cards
 - a diary
 - supplies as required of personalised Council letterhead

- notepaper and envelopes when required

17.2 Council stationery is not to be converted or modified in any way and may only be used for carrying out the functions of the civic office (not to be used for election purposes).

17.3 Secretarial support will be made available by the Chief Executive Officer for Councillors to assist them in responding to correspondence and inquiries as part of their official duties as a Councillor.

18 Building Access and Parking

18.1 Each Councillor will receive a computerised key allowing access to the Civic Suite at the Whitehorse Civic Centre, 379-397 Whitehorse Road Nunawading. Loss or theft of this key must be reported immediately to the Civic Services department.

18.2 Designated parking spaces for Councillors will be available at the Whitehorse Civic Centre.

19 Name Badge

19.1 Each Councillor and his/her partner will be provided with a name badge for use while on Council business.

20 Functions

20.1 The purchase of a City of Whitehorse table/s at functions shall be first approved by the Manager of Civic Services in consultation with the Chief Executive Officer.

20.2 Any invitations to attend an event or function (which are related and relevant to the "duties of a Councillor" as specified in Section 75 (2) of the Local Government Act and objective 5), must be received in writing (ie formal invitation by name, from the event organiser) in order for Council to cover this expense.

20.3 Councillors shall be reimbursed for function, dinner and lunch costs for his/her partner where the Councillor and partner have been specifically invited to the event as representatives of the Council (in accordance with clauses 9 and 20.2. A partner or guest may accompany a Councillor to functions where other attendees are generally accompanied by partners. The functions will generally involve luncheons and evening activities and be of a nature where other attendees will be accompanied by partners.

21 Facilities for the Mayor

21.1 Each Mayor will be provided with:

- A perpetual Mayoral medallion for use at official functions and at the end of the Mayoral term will be presented with a replica medallion in recognition of their services.
- A fully maintained vehicle will be provided in accordance with the requirements and provisions of Council's Fleet and Vehicle Safety policy.
- A Blackberry device with appropriate handsfree phone unit fitted in the Mayoral car.
- Secretarial support via the Executive Assistant Mayor and Councillors to assist the Mayor and Mayoral Partner in performing their official duties.
- Office accommodation and associated equipment within the Whitehorse Civic Centre.

- 21.2 This policy covers travel expenses within Victoria. A separate policy exists covering conference attendance and interstate/overseas travel by Councillors.

TRAVEL EXPENSES

22 Private Vehicle Use

- 22.1 Councillors using their private vehicles outside of the municipality to carry out their official Council functions will be reimbursed reasonable expenses as per the applicable mileage rate applicable where such costs are incurred as part of their official duties.
- 22.2 Travel within the municipality is deemed to be covered by the Councillor allowance.
- 22.3 Claims for reimbursement of travel must be submitted within three (3) months of the date from which they are incurred.

23 Cabcharge Cards

- 23.1 Councillors may use Cabcharge cards/E Tickets for taxi travel to assist them to carry out their functions as Councillors. Councillors will be supplied, upon request, with Cabcharge cards for reasonable use whilst carrying out their official duties.
- 23.2 A quarterly statement is to be signed off by Councillors detailing by number the Cabcharge cards used and brief details of the trip.
- 23.3 Cabcharge cards are to be used only as a last resort when no other transport option is available or practicable
- 23.4 Cabcharge cards are to be used by the cardholder only and must not be provided to any other individual for use.

24 Public Transport

- 24.1 Public transport fares will be reimbursed upon production of receipt/ticket' in accordance with approved use as per this policy

25 Carparking Fees

- 25.1 Car parking fees incurred while conducting Council business will be reimbursed on the basis of original receipts and relevant details regarding the purpose, date and time of the meeting or function.

ACCOUNTABILITY

- 26 Out of pocket expenses/reimbursement will be audited on a quarterly basis by the internal auditor and any items considered to be outside the Local Government Act 1989 or this policy will be reported to the Audit Committee. The total of expense reimbursements will be reported quarterly to the Audit Committee by the General Manager Corporate Services.

RELATED POLICIES

- 27 Conference Attendance and Travel by Councillors

APPENDIX F – POLICY – CONFERENCE ATTENDANCE AND TRAVEL BY COUNCILLORS

PURPOSE

- 1 To clarify the approval process for overseas and interstate travel by Councillors in an official capacity.
- 2 To outline the process for reimbursement of expenses associated with such travel.
- 3 To ensure the statutory *Register of Overseas or Interstate Travel* is maintained in accordance with Regulation 11c of the Local Government Regulations 2004.

OBJECTIVES

- 4 To define the procedure to be followed when approval to travel is sought.
- 5 To define the process and prescribe the application form for reimbursement of expenses incurred during travel undertaken in capacity of Councillor.
- 6 To specify a post-travel reporting procedure for Councillors who have travelled overseas or interstate wholly or partially funded by Council.
- 7 To ensure statutory requirements are met regarding entries in the *Register of Overseas or Interstate Travel*.
- 8 To meet Council Plan objectives.

SCOPE

- 9 This policy applies to all Councillors of the City Of Whitehorse.

DEFINITIONS

- 10 *Statutory Reference: Local Government Regulations 2004
Part 5– Information to be made available to the public*

Regulation 11. A Council must make available for public inspection

'(c) details of overseas or interstate travel, (with the exception of interstate travel by land for less than 3 days) undertaken in an official capacity by Councillors or any member of Council staff in the previous 12 months, including the names of the Councillors or members of Council staff and the date, destination, purpose and total cost of the overseas or interstate travel;'

Note 1: The Whitehorse City Council has established for the purpose of capturing such details a '*Register of Overseas and Interstate Travel*' held in the Civic Services Department to ensure such details are always available for public inspection.

Note 2: Travel must be entered in the register if taken by a person 'in an official capacity' which includes travel undertaken because of the position they hold, whether or not the Council pays for any of the trip. It is on the basis of travel undertaken, not who paid the expenditure.

- 11 'Official capacity' means the position held by a person in relation to the Whitehorse City Council. This covers an elected Councillor for the purpose of this Policy. It includes attendance at conferences and seminars, either as a participant or speaker.

'Interstate Travel' for the purpose of this policy means travel outside Victoria and within Australia.

POLICY

- 12 Council recognises that attendance at conferences/seminars/study tours contributes to the personal and professional development of Council and is consistent with Council's objectives.
- 13 Registration fees, accommodation, travelling expenses and other out of pocket expenses shall be borne by Council in accordance with clause 16 of this Policy. The amount payable by Council for travel by air shall be the equivalent of a return economy class airfare. Reimbursement of all expenses is based on the principle of cost neutrality to the participant.
- 14 The amount available to individual Councillors for conference/seminar attendance shall be in accordance with the amount allocated specifically for this purpose in Council's annual budget.
- 15 All overseas travel shall be authorised in advance by Council. All interstate travel shall be authorised in advance by the Mayor.
- 16 Council in its annual budget will allocate a specified sum per Councillor for the purpose of conference seminar/attendance travel and associated expenses and training under the Council Expenses Program. Expenditure in excess of the allocated sum for each Councillor will require Council approval prior to expenditure occurring.
- 17 Individual Councillor expenses accounts shall be maintained for the purposes of this policy.
- 18 In instances where a Councillor's spouse or another family member travels with the Councillor, they shall meet the full cost incurred. These costs must be paid in full to Council at the time of conference registration and prior to travel being undertaken. Any additional costs incurred by the Councillor's spouse/family member shall be reimbursed to Council within 14 days of return from travel.
- 19 Any Councillor who is offered sponsorship in the form of conference registration or other costs in an official capacity, wholly or partly by any government agency, external organisation or person, shall immediately make this known to the Mayor and Chief Executive Officer.
- 20 A written report shall be prepared for the information of Council by every Councillor, (subject to the exception below) who has travelled overseas or interstate in an official capacity. The report shall provide comment on the value of the conference/visit, benefits to the city and provide recommendations for further action (if applicable). This report will be circulated to Councillors via the Councillor Portal. In the event that two or more Councillors attend the same conference, for the purposes of this policy, only one written report is required which may be a joint report.

PROCEDURE

- 21 Approvals for travel undertaken in an official capacity.

A 'Request for Travel' must be submitted on the prescribed form (Attachment 1) and submitted for approval in accordance with this policy. To meet Council's statutory obligations a copy of the form is to be forwarded to the Manager Civic Services for inclusion in the *Register of Overseas and Interstate Travel*.

- 22 All arrangements for Councillors will be handled by the EA to Mayor and Councillors. EA to Mayor and Councillors is NOT responsible for handling travel arrangements for accompanying spouse/family members.

PAST CONFERENCE/SEMINAR ATTENDANCE REQUIREMENTS

- 23 Written reports as required under Clause 20 will be issued within two months of the date of return from such conference/seminar attendance.
- 24 To ensure that the Council Administration consider and follow up on actions/initiatives and recommendations from the reports of Councillors attending conferences, Manager Civic Services will review the reports and list matters requiring attention before the Executive Management Team. The Executive Management Team will decide the appropriate action and allocate action officers. All Councillors will be advised of the progress of these items.

EXPENDITURE

- 25 Details of expenditure for ALL overseas and interstate travel shall be provided by every Councillor in the prescribed form – ‘Report on Expenditure for Travel’ (Attachment 2). The form is to be submitted to the Mayor within 14 days of return from the travel. Following approval by the Mayor, the form will be forwarded to the Finance Department for relevant action and a copy provided to Manager Civic Services for inclusion in the *Register of Overseas and Interstate Travel*.

RESPONSIBILITY

- 26 Individual Councillors for document completion
Manager Finance for reimbursement of expenses
Manager Civic Services for maintenance of *Register of Overseas and Interstate Travel*.

**CITY OF WHITEHORSE
COUNCILLOR REQUEST FOR TRAVEL (Interstate or Overseas)**

This form is to be submitted to the MAYOR for signature BEFORE you make any arrangements, ie conference bookings, air fares etc via the EA to the Mayor and Councillors, purchase order or any other method.

I _____ (name)

request permission to travel to _____
(state destination and if flying or driving there)

for the purpose of attending _____
(Describe conference)

The benefit to Whitehorse of this travel is:

Note: if somebody else is also attending, they need to do a separate form, keeping all travel costs separated.

I would like to depart on _____ and return on _____

Expenses to be paid from account _____

My proposed air fares, travel costs and registrations are:

(detail here flight times, dates, how many nights accommodation etc and any comments you wish to make)

Request for Travel is Part 1 of the process.

Within 14 days of completion of travel you must complete a Report of Expenditure Form (Part 2 of the process). Report of Expenditure Form is required to register your trip and is separate to any reimbursements you are claiming.

It is a statutory requirement under the Local Government (General Regulations) 2004, for Council to maintain a Register of Interstate and Overseas Travel and to make this Register available for public inspection for a period of 12 months.

During your trip, if you use your personal credit card or Cabcharge, please make a note of costs so you can finish this form without waiting for a monthly statement.

(Signature)

MAYOR'S APPROVAL

(Signature)

(FOR COUNCILLORS' INTERSTATE TRAVEL MAYOR'S APPROVAL IS REQUIRED, FOR COUNCILLORS' OVERSEAS TRAVEL APPROVAL OF COUNCIL IS REQUIRED)

(After approval, **you** are required to provide a copy to Manager Civic Services).

PLEASE REFER TO CONFERENCE ATTENDANCE AND TRAVEL POLICY BEFORE SUBMITTING THIS FORM

**CITY OF WHITEHORSE
REPORT OF EXPENDITURE FOR TRAVEL - COUNCILLORS**

(To be completed within 14 days of return from the trip)

NAME _____

TITLE **COUNCILLOR**

Please note: This form is for the purpose of entering the travel in the register required by the Local Government Act which is a separate purpose from any reimbursement claims. On completion of the form, you must submit a copy to Manager Civic Services after MAYOR has signed it.

Date and Purpose of Trip (include the dates and place of the conference)

EXPENDITURE DETAIL	Cost	* Method of Payment	Account No	Comments
Airfares				
Accommodation				
No of nights:				
Conference Costs				
Meals				
Taxis				
Hire Car				
Other (Pls specify)				
TOTAL	\$			

*Prearranged, credit card, cash etc

I confirm this is a true and accurate record of my travel expenditure and reimbursements sought whilst attending an interstate/overseas conference in accordance with Council Policy, and does not include any claims for reimbursements of a personal or private nature.

SIGNATURE _____

Approval: MAYOR _____

COPIES TO BE PROVIDED BY COUNCILLOR TO CIVIC SERVICES

File No: 55/04/013 & _____ Entered in Register: _____

APPENDIX G – POLICY - ELECTION POLICY

Purpose

In order to ensure that elections for the Whitehorse City Council are conducted in a manner that is fair and equitable, and is publicly perceived as such, the Council affirms the following policy principles.

Election Period

The "Election Period" starts on the last day on which nominations for that election can be received and ends at 6.00pm on election day.

As soon as possible, and no later than 30 days prior to the commencement of the Election Period, the Chief Executive Officer will ensure that all Councillors, Managers and staff are informed of the requirements of this policy.

Significant Decisions

During the Election Period the Council will not make a major policy decision as defined under Section 93A the Act. In the case of a major policy decision which is not significantly prohibited under Section 93A of the Act, Council will be aware of a number of factors indicating whether the decision/issue:

- a. is urgent;
- b. cannot be reasonably deferred without significant consequences to the Council or the community of Whitehorse; and
- c. relates to the completion of activity already endorsed by Council eg: via the Budget, Council Plan, Business Plan, 10 Year Plan etc.

Where possible, the Chief Executive Officer will ensure that matters are scheduled for Council to ensure that significant decisions are resolved prior to the commencement of the Election Period or scheduled for determination by the incoming Council.

Council Resources

The 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 this regard. 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 or the Manager Civic Services.

Council resources, including offices, support staff, meeting facilities, hospitality, equipment photocopying and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election.

Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

No Council logos, letterheads, or other Whitehorse City Council logos or associated Council material will be used for, or linked in any way to, a candidate's election campaign.

The Chief Executive Officer and Council staff will not be asked to undertake any tasks connected directly or indirectly with electioneering.

Information

The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.

Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

An Information Request Register will be maintained by the Manager Civic Services during the Election Period. This Register will be a public document that records all requests for information by councillors and candidates, and the responses given to those requests.

All requests for information are to be directed to the Chief Executive Officer in written format.

Publicity

It is recognised that Council publicity is intended to promote Council activities and services. Council publicity will not be used in any way that might influence the outcome of a Council election.

Council is required to comply with Section 55D of the Act which states:

“A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process”.

In addition:

- a. during the Election Period, no Council employee may make any public statement that could be construed as influencing the election;
- b. 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 service or function, it must be approved by the Chief Executive Officer. Council publicity during the Election Period will be restricted to promoting normal Council activities;
- c. any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer or Manager Civic Services. In any event, no media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors;
- d. Councillors will not use their position as an elected representative to access Council staff and other Council resources to gain media attention in support of an election campaign; and
- e. all Council media releases (which exclude electoral matters) in the Election Period will be issued in the name of the Chief Executive Officer as appropriate.

Assistance to Candidates

The Council affirms that all candidates for the Council election will be treated equally.

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

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or the Manager Civic Services.

APPENDIX H – ELECTION CAMPAIGN DONATIONS

*Local Government Act 1989
Act No. 11/1989*

Division 9 - Election campaign donations

62. Return by candidate

1. Within 60 days after election day, a person who was a candidate in the election must give an election campaign donation return to the Chief Executive Officer.
2. An election campaign donation return must:
 - a. be in the prescribed form; and
 - b. contain the prescribed details in respect of any gifts received during the donation period by the candidate or on behalf of the candidate, to be used for or in connection with the election campaign:
 - (i) the amount or value of which is equal to or exceeds \$200; or
 - (ii) being goods or services the amount or value of which is equal to or exceeds \$200.
3. Despite sub-section (2), a candidate is not required to specify the relevant details of an amount in a return if the amount was a gift made in a private capacity to the candidate for the candidate's personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to the election.
4. The reference in sub-section (2) to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association.
5. For the purposes of this section, two or more gifts made by the same person to or for the benefit of a candidate are to be taken to be one donation.
6. In this section, "**donation period**" means the period beginning 30 days after election day in the last election for the ward and ending 30 days after election day in the current election for that ward.
7. A person who:
 - a. fails to give a return that the person is required to give under this section; or
 - b. gives a return that contains particulars that to the knowledge of the person are false or misleading in a material particular; or
 - c. provides information that to the knowledge of the person is false or misleading in a material particular to a person required to give a return under this section;is guilty of an offence.

Penalty: 50 penalty units.

8. If no details are required to be included in a return under this section in respect of a candidate, the return:
 - a. must be given; and
 - b. must include a statement to the effect that no gifts of a kind required to be disclosed were received.

62A. Responsibilities of Chief Executive Officer

- (1) The Chief Executive Officer must within 28 days after the period specified in section 62(1) submit a written report to the Minister specifying:
 - (a) the names of the persons who were candidates in the election; and
 - (b) the names of the persons who submitted a return under section 62.
- (2) The Chief Executive Officer must retain an election campaign donation return for a period of 4 years from the date that it is given under section 62.

The Chief Executive Officer must ensure that a copy of an election campaign donation return retained under sub-section (2) is available for inspection at the office of the Council during normal office hours.

62B. Certain gifts not to be accepted

- (1) It is unlawful for a Councillor or a person acting on behalf of a Councillor to receive during the donation period a gift made to or for the benefit of the Councillor, being a gift the amount or value of which is equal to or exceeds \$200 unless:
 - (a) the name and address of the person making the gift are known to the person receiving the gift; or
 - (b) at the time when the gift is made:
 - (i) the person making the gift gives to the person receiving the gift the person's name and address; and
 - (ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (2) It is unlawful for a candidate or a person acting on behalf of a candidate to receive during the donation period a gift made to or for the benefit of the candidate, being a gift the amount or value of which is equal to or exceeds \$200 unless:
 - (a) the name and address of the person making the gift are known to the person receiving the gift; or
 - (b) at the time when the gift is made:
 - (i) the person making the gift gives to the person receiving the gift the person's name and address; and
 - (ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

- (3) The references in sub-sections (1) and (2) to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association.
 - (4) A reference in sub-section (1) or (2) to the name and address of a person making a gift is:
 - (a) in the case of a gift made on behalf of the members of an unincorporated association, a reference to:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
 - (b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation, a reference to:
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation.
 - (5) For the purposes of sub-section (2), a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the election day in the election.
 - (6) For the purposes of this section, 2 or more gifts made by the same person to or for the benefit of a Councillor or a candidate are to be taken to be one gift.
 - (7) In this section, "**donation period**" means the period beginning 30 days after election day in the last election for the ward and ending 30 days after election day in the current election for that ward.
 - (8) If a person receives a gift that, by virtue of this section, it is unlawful for the person to receive, an amount equal to twice the amount or value of the gift is forfeited to the State.
 - (9) An amount forfeited under sub-section (8) may be recovered against the Councillor or candidate.
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