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Election Period Policy

Policy Number	POL/18/53[v2]
Effective date	28 May 2020
Review date	August 2023
Responsibility	Chief Executive officer

1. Status of Policy

This policy has been adopted by the Whitehorse Manningham Regional Library Corporation ('the Corporation') in response to the requirements of section 93B of the *Local Government Act 1989* (the Act).

The *Local Government Act 2020* does not apply because s330 (2) of the Act states as follows:

"....sections 196 to 197G of the *Local Government Act 1989* and any sections of the *Local Government Act 1989* incorporated by reference in sections 196 to 197G of the *Local Government Act 1989* and the provisions of any other Act that apply to an existing regional library, continue to apply to an existing regional library as if all of those sections had not been repealed."

In adopting this policy it is noted that the Whitehorse and Manningham Councils have each also adopted an election period policy to bind or guide the conduct and decisions of their councillors and officers. Those policies also serve to address interactions between those councillors and officers and the Corporation. Therefore a key function of this policy is to give further weight to the policies of the member Councils particularly by providing clarity to support personnel of the Corporation to act in alignment with those two election period policies.

2. Purposes

- 2.1 To assist the member Councils in ensuring that elections of councillors are publicly perceived as being conducted in a manner that is fair and equitable.
- 2.2 To support compliance with the provisions of the Act in relation to the election period through -
- a) prevention of inappropriate decisions (i.e. decisions that would affect voting in an election, or decisions that could reasonably be made after the election); (See Parts 4 and 5 below);
 - b) prevention of use of resources (including opportunities for publicity) inappropriately during the election period before a general election; (See Parts 6 and 7);
 - c) procedures to ensure that access to information held by the Corporation is made equally available and accessible to candidates during the election. (See Part 8); and
 - d) limits on public consultation and the scheduling of events (See Parts 9 and 10).
- 2.3 The policy will provide guidance to Corporation personnel, Board members, councillors who are not members of the Board, other candidates and the community during the election period.

3. Election Period

The "Election Period" starts at the close of receipt of nominations for that election and ends at 6.00pm on election day. In other words, the election period for 2020 commences at midday on Tuesday 22 September and concludes at 6.00pm on Saturday 24 October.

As soon as practicable after it is adopted the Chief Executive Officer will ensure that:

- a) a copy of this policy is given to all Board members;
- b) managers and staff are informed of the requirements of this policy; and
- c) a copy of this policy is given to all other councillors of the member councils in a manner consistent with the normal internal communication protocols of each council.

4. Significant Decisions

During the Election Period the Corporation will not make a major policy decision as defined under section 93A of the Act.¹ The Corporation does not levy rates and charges, therefore

¹ S93A (6) *Local Government Act 1989*

*'(6) In this section, a **major policy decision** means any decision—*

(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—

the threshold for the purpose of s193A(6)(c) and (d) is \$100,000 (inc GST).

In the case of a significant decision that is not defined as a major policy decision under section 93A of the Act, the Corporation will consider a number of factors to assess whether the decision/issue:

- a) is urgent;
- b) cannot be reasonably deferred without significant consequences to the Corporation or the affected community; and
- c) relates to the completion of activity already endorsed by Corporation (for example via the Collection Management Strategy, Budget, Library Annual Action Plan or Library Plan).

Where possible, the Chief Executive Officer will ensure that matters are:

- scheduled for the Board to ensure that significant decisions are resolved prior to the commencement of the election period; or
- scheduled for determination by the incoming Board.

5. Inappropriate Decisions

During the Election Period the Corporation will follow procedures to prevent inappropriate decisions as defined under section 93B of the Act. Inappropriate decisions are those that would affect voting at an election that may unreasonably bind an incoming Board and could reasonably be deferred until after the election.

All documentation prepared for Board meetings will be reviewed by the Chief Executive Officer to ensure that no agenda item is included that might lead to an inappropriate decision as defined under S93B(5) of the Act in that the decision may:-

- a) affect voting in an election; or
- b) could reasonably be made after the election.

Board members will refrain from moving motions or raising matters at a meeting that might be perceived to be contrary to the purpose of this policy.

(i) \$100 000 or such higher amount as may be fixed by Order in Council under section 186(1); or
(ii) 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;
(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 \$100 000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.'

Corporation personnel with delegated responsibility for decision making will be alerted to the requirements of the Act and this policy in order to assist them to avoid inappropriate decisions under the terms of their delegations.

6. Corporation Resources

The Corporation will ensure that due probity is observed in the use of all Corporation resources, and Corporation staff are required to exercise appropriate discretion in this regard.

Corporation resources, including offices, support staff, meeting facilities, hospitality, equipment photocopying and stationery, will not be used for the production or distribution of electoral matter or in connection with any election campaign.

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

In any circumstances where the use of Corporation resources might be construed as being related to electoral matter or a candidate's election campaign, staff will seek advice from the Chief Executive Officer or the Manager Corporate Services.

The Chief Executive Officer and Corporation staff will not be asked to undertake any tasks connected directly or indirectly with a candidate's election campaign.

7. Publicity

Corporation publicity is created to promote its activities and services. Corporation publicity will not be used in any way in the election period that might influence the outcome of a Council election. The Corporation is required to comply with Section 55D of the Act in regard to certification of materials by the Chief Executive Officer.²

² Section 55D *Local Government Act 1989*

“A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.”

Penalty: 60 penalty units.

In addition, during the election period:

- a) no Corporation employee may make any public statement that could be construed as influencing the election;
- b) publicity campaigns will be avoided wherever possible. The Board and the Corporation will be restricted to promoting normal Corporation activities and must be approved by the Chief Executive Officer;
- c) any requests for media advice or assistance from councillors during the election period will be channelled through the Chief Executive Officer or Manager Corporate Services. No media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors or candidates;
- d) councillors will not use their position as an elected representative to access Corporation staff and other Corporation resources to gain media or community attention in support of an election campaign;
- e) all Corporation media releases will be issued in the name of the Chief Executive Officer; and
- f) the Chief Executive Officer will ensure compliance with S55D of the Act.

8. Websites and Social Media

- a) No electoral matter will be placed on the Corporation Website or social media accounts during the election period.
- b) The Chief Executive Officer will ensure that during the election period the only new publications on the website or posts on social media accounts will be those that do not breach this policy, are certified, and are essential for the conduct of Corporations and apolitical in nature.
- c) Corporation agendas, minutes and the annual report are exempt from certification.
- d) For the duration of the election period a statement will be placed on Corporation's Website and social media accounts advising that the updating or addition of new information during the election period will be in conformance with this Election Period Policy.
- e) Material published on Corporation's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the election period.
- f) Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted.
- g) Social media activity during the election period will be moderated to ensure:-

- social media posts are kept to a minimum, necessary operational information only;
- no launches or announcements of any new projects, policy initiatives, or programs;
- on all Facebook pages the 'post comments' from all facility to be disabled; and
- no posting of or responding to political content is permitted.

8. Information

All election candidates have rights to information from the Corporation administration. Sitting councillors of both municipalities should also have the opportunity to continue to receive information that is necessary to fulfil their elected roles.

The highest possible standards of transparency should be applied in the in the provision of information and advice to councillors and candidates during the election period. To that end the following arrangements will apply:

- a) All requests for information will be directed to the Chief Executive Officer in written format.
- b) An Information Request Register will be maintained by the Manager Corporate Services during the Election period. This Register will record all requests for information by councillors and candidates, and the responses given to those requests. The Register will be updated as soon as practicable following each request for information and made available for public inspection.
- c) Board members, councillors and candidates have a right to access material that is generally available as public information, and not subject to privacy or confidentiality provisions.
- d) Information provided will not relate to policy development or interpretation, new projects or matters that are the subject of public or election debate, require an unreasonable use of library resources in preparation or collation, or that might be perceived to be connected with a candidate's election campaign.
- e) To ensure compliance with S93B(3)(c) of the Act, any information provided to a councillor or candidate, except material contained within any agendas or reports for Board consideration, will be provided to all councillors or candidates of the municipality of the councillor or candidate who has been provided with the information.

9. Public Consultation

During the Election Period the Corporation will not initiate public consultation processes.

Whilst consultation is an integral part of policy development process and operations, consultation should not be undertaken close to a general election so as to possibly become an election issue in itself and influence voting.

This provision will not apply to normal and ongoing operational consultation processes, such as those used for capturing regular user feedback on service quality. However data from such processes will not be reported to the board or otherwise made publically available during the election period.

10. Corporation Events

During the Election period the Corporation will limit the scheduling of Corporation events during this period. The scheduling of Corporation events in the election period may raise concerns as to of conflict between the stated purpose of the event and the conduct of the election.

The Chief Executive Officer will ensure that no Corporation events will be scheduled during the Election period unless there are special circumstances making it necessary and articulating how the risks of influencing the election will be mitigated or prevented.

11. Public availability of this Policy

A copy of this policy is:

- a) available for inspection by the public at all libraries; and
- b) published on the Corporation website.