



**Victorian
Public Sector
Commission**

Guidance during election periods

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Guide for employees during election periods

This guide tells Victorian public sector employees and contractors what their obligations are in the lead-up and during local, state and federal elections.

This includes if you seek election or want to take part in election campaigns.

Complying with the code of conduct

The code of conduct assists employees, including contractors, to always maintain appropriate standards of behaviour.

For all local, state or federal elections, you need to be mindful of these obligations in the [code of conduct](#):

- You should conduct yourself in an apolitical manner. In the course of your work, avoid any participation in activities that support a political party or independent candidate (item 2.2 of the code).
- Only use official information for its official purpose and if you have approval (item 3.4 of the code).
- Where possible, avoid any conflicts of interest and manage those you can't avoid consistent with your employer's policies (item 3.7 of the code).
- Ensure any paid or volunteer work doesn't conflict with your public sector role and that your employer has approved your participation (item 3.8 of the code).
- At work and in your private life, avoid damage to your employer or the public sector's reputation and the public's trust in how you do your job (item 3.9 of the code).
- Only use work resources for appropriate purposes as authorised by your employer (item 5.3 of the code).

For any election activity, only make a personal public comment if it (item 3.5 of the code):

- isn't about government activity you're involved in or connected with as a public sector employee
- is clear the opinions are yours

- doesn't compromise your ability to do your job in an unbiased manner.

If you breach your obligations in the Code of Conduct

Failure to comply with your obligations, including any breach of the Code of Conduct, could lead to disciplinary action up to and including termination of employment.

What to do if you're involved in election activities

If you're involved in election activities, you must avoid any **actual, potential or perceived conflict of interest** with your public sector job.

Examples of election activities could be if you:

- develop election advertising material
- distribute how-to-vote cards at election booths
- organise or take part in candidate forums
- campaign on social media
- wear or display political material.

To avoid any **actual, potential or perceived conflict of interest**, ensure you don't:

- let political activities influence or interfere with your work
- use any official information obtained through your employment in the public sector except for official purposes or if you have approval
- campaign at work, such as putting up posters, leaving flyers or sending emails
- use government resources or equipment to further your or others' candidacies
- ask colleagues to assist with your campaign
- publicly support or criticise the policies of any political party or candidates
- wear an official uniform or use work resources, including vehicles while involved in election activities.

If you can't separate your election activities from your duties as a public sector employee, put appropriate arrangements in place with your employer.



In the first instance, discuss potential arrangements with your manager.

Standing for election

Federal, state and local government elections all have different legislative requirements for candidates. It is each candidate's responsibility to make sure they are aware of and comply with all requirements.

Federal elections

Section 44 of the Australian Constitution prevents anyone 'holding an office of profit under the Crown', including Victorian public sector employees, from [standing for election](#) to the House of Representatives or the Senate in a federal election.

A Victorian Public Service employee who resigns to stand in a federal election may seek reinstatement by the Governor in Council under clause 3 of Schedule 1 to the Public Administration Act 2004. This provision also applies to teaching service employees and Victoria Police members.

The Public Administration Act 2004 provides that reinstatement is at the same classification as the person had immediately prior to resignation. It also requires that reinstatements must be made within two months of the declaration of the polls.

A former VPS employee who wishes to seek reinstatement should make the request as soon as reasonably practicable following the declaration of the polls.

Given the Public Administration Act 2004 only allows for reinstatement to occur within 2 months following the declaration of the polls, it is the former employee's responsibility to request reinstatement promptly to ensure sufficient time for the Governor in Council to consider the request.

The former employee can make a request for reinstatement by sending their request to: publicsectorworkforce@dpc.vic.gov.au

For quick processing, the request should be marked urgent and:

Step 1: Include the following information

- Name of former employer (department and branch).
- Position title and classification (e.g. VPS Grade) at time of resignation.



- Employment status (i.e. ongoing, fixed-term (including contract expiry date) or casual).

Step 2: Attach the following documents

- Copy of the letter of resignation tendered to former employer, stating that the reason for the resignation is to contest a federal election, and giving the effective date of resignation.
- Evidence of candidacy in the federal election (acknowledgement of nomination from the Australian Electoral Commission (AEC) and qualification checklist published on the AEC's website).

Former employees may return to their employment once the Governor in Council has approved their reinstatement.

Public sector employees who are not covered by clause 3 of Schedule 1 to the Public Administration Act 2004 and who seek to stand in a federal election should discuss with their employer, prior to resigning, whether there are options to seek reinstatement if they are unsuccessful.

State and local elections

There is no requirement for public sector employees to resign if they wish to run as a candidate for state or local council elections.

Under section 61 of the Victorian Constitution, a public sector employee can stand for election without being disqualified by reason of their employment by the State of Victoria.

The [Charter of Human Rights and Responsibilities Act 2006](#) establishes your right to take part in public life. This includes the right to be elected at state and local government elections.

If you decide to stand for a state or local election, you must ensure you remain apolitical in performing your public duties and manage any conflicts of interest.

To minimise the risk of breaching the code of conduct, you should:

- disclose your candidacy to your manager and a senior executive to minimise any situations that could lead to a breach of the [code of conduct](#)
- discuss with your manager how your candidacy relates to your public sector duties and whether your involvement in campaigning will impact on your ability to perform your

duties as a public sector employee

- complete a declaration and management of conflict of interest form, to be filed with your organisation's Human Resources (for example, the [conflict of interest form](#)).

The form provides for a conflict of interest management plan. This should identify suitable arrangements to ensure that you can properly satisfy your obligations under the [code of conduct](#). The management plan should take into account all relevant factors, including:

- the nature of your role in the public sector
- your access to confidential and sensitive information
- the timing of your election campaign, and the time commitment required.

It may be appropriate to put temporary arrangements in place while you are a candidate in the election, including:

- taking annual or long service leave
- unpaid leave
- modification to duties
- temporary transfer or secondment to another role.

If you're elected to state parliament

If you're elected to the state parliament's Legislative Council or Assembly, section 49 of the Victorian Constitution says your election is null and void if you remain employed in the public sector.

While you can stand for election, you cannot take office while remaining employed in the Victorian public sector.

If you're elected to a local council

You don't need to resign if you're elected to a local council if you can do your job without breaching the code and manage any conflicts of interest.

Please be aware of any other requirements or restrictions for councillors in the [Local Government Act 2020](#) (for example the requirements to avoid conflicts of interest).

Right to review matters

An employee has a right to have an unfair or unreasonable decision reviewed. This includes:

- not granting an employee time off to participate in an election campaign or to serve as a Councillor; or
- the process used in a misconduct investigation and the determination of a proportionate disciplinary outcome.

Administrative or internal review under the *Public Administration Act 2004* of a decision by the Governor in Council to decline a request for reinstatement is not available. A former employee seeking the review of a decision to decline a request for reinstatement should consider obtaining independent legal advice on alternative options, such as pursuing judicial review through the Victorian court system.

More information

Questions about the reinstatement process should be directed to the Department of Premier and Cabinet: publicsectorworkforce@dpc.vic.gov.au

Questions about the Code of Conduct and Guidance During Election Periods should be directed to the Victorian Public Sector Commission: integrity@vpssc.vic.gov.au



Manager's guide for working with employees involved in election activities

This guide is for Victorian public sector managers to manage the risks associated with their employees who are, or plan to be, engaged in election activities.

Election activities include things like:

- campaigning
- standing for election
- any other related activity, such as making work or personal comments on government activities linked to your employee's employment.

This guide applies to local, state and federal elections.

Making employees aware of their obligations

For all local, state or federal elections, ensure your employees are aware of their obligations in the [code of conduct](#).

The code requires employees:

- be apolitical
- deal with conflicts of interest
- limit their use of official information and resources
- be aware of restrictions when making public comment.

If your employee decides to be involved in election activities, you need to work with them to:

- ensure they remain apolitical
- avoid any [actual, potential or perceived conflict of interest](#) with their public sector employment.



Asking employees to read the employee guide

Ask your employees to read the [guide for employees involved in election activities](#) and discuss what's in the guide to ensure they understand their responsibilities.

The guide provides information on:

- items in the code of conduct that relate to election periods
- examples of election activities and tips on how to avoid conflict of interests
- information on standing for elections.

Setting up arrangements

Federal elections

Advise your employees of obligations under section 44 of the Australian Constitution which prevents anyone 'holding an office of profit under the Crown', including Victorian public sector employees.

Find out more in the [guide for employees involved in election activities](#).

Local and state elections

If your employee wants to seek election to a local council or the state parliament, you must:

- tell a senior person in your organisation, such as your manager or a human resources executive
- help facilitate and agree to arrangements that balance your employee's obligations with their right to run for office.

Examples of arrangements include:

- annual or long service leave on half or full pay
- unpaid leave
- change of duties
- temporary transfer or secondment to another role.

What you decide will depend on your employee's circumstances.

