

Policy Section:	1. Corporate Governance
Policy Name:	Caretaker (Elections)
Classification:	Mandatory Council Policy
Adopted:	July 2014
Frequency of Review:	6 months prior to a general election
Last Review:	May 2018
Next Review Due:	May 2022
Responsible Officer(s):	Governance Officer
Policy and Code of Practice Manual File Ref:	CC10/2601
Council File Reference:	CR18/549
Legislation Authority:	Local Government (Elections) Act 1999 (SA)
Related Policies and Codes:	Code of Conduct for Council Members
Related Procedures:	Caretaker Guidelines CR18/24720

## 1. BACKGROUND

This policy implements the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999 (SA)*.

## 2. DEFINITIONS

In this Policy:

- 2.1 **Chief Executive Officer** means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.
- 2.2 **Council staff** means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.
- 2.3 **Council Member** means an elected member of the Town of Gawler.
- 2.4 **Election period** means the period commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election.

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2.5 **Designated decision** means a decision:

- (a) relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and willful misconduct;
- (b) to terminate the appointment of the Chief Executive Officer;
- (c) to enter into a contract, arrangement or understanding (other than a contract for road construction, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year, except if the decision:
  - (i) relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* (SA), or under section 298 of the *Local Government Act 1999* (SA);
  - (ii) is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
  - (iii) relates to the employment of a particular Council employee (other than the Chief Executive Officer);
  - (iv) is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
  - (v) relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council; or
- (d) allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates).

2.6 **General election** means a general election of Council Members held:

- (a) under section 5 of the *Local Government (Elections) Act 1999*; or
- (b) pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

2.7 **Minister** means the Minister of the South Australian government vested with responsibility for the Local Government (Elections) Act.

### **3. APPLICATION OF POLICY**

3.1 This policy applies throughout the election period for a general election. For the purposes of the Local Government Elections of November 2018, the policy commences on 18 September 2018 and ends at the conclusion of the election, when results have been declared.

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3.2 This policy applies to:

3.2.1 the Council; and

3.2.2 Council staff.

3.3 This policy is to be taken to form part of the Code of Conduct for Council Members gazetted for the purposes of section 63 of the *Local Government Act 1999 and the Human Resource Management Policy*.

### **4. PROHIBITION ON DESIGNATED DECISIONS**

4.1 The Council is prohibited from making a designated decision during an election period.

4.2 A decision of the Council includes a decision of a delegate of Council.

### **5. CONSEQUENCE OF CONTRAVENING THIS POLICY**

5.1 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.

5.2 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this policy is entitled to compensation from the Council for that loss or damage.

### **6. APPLICATION FOR EXEMPTION**

6.1 If the Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the Council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act 1999* and this policy.

6.2 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act 1999* and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

### **7. COMMUNITY FUNCTIONS OF THE COUNCIL DURING THE CARETAKER PERIOD**

7.1 The Mayor will continue to accept invitations to attend community functions, as will Council Members, particularly when those functions are in recognition of activities of community groups whether having gained the support of the Council through grants or not.

7.2 The Mayor will continue to be Council's spokesperson in the media or at other official functions.

### **8. REVIEW AND EVALUATION**

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

The Policy will be reviewed 6 months prior to each general election of Council.

### **9. FURTHER INFORMATION**

Further information about this Policy can be obtained by:-

Telephone: 8522 9211

Fax: 8522 9212

Email: [council@gawler.sa.gov.au](mailto:council@gawler.sa.gov.au)

Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.

Letter: PO Box 130, Gawler SA 5118

### **10. AVAILABILITY OF POLICY**

The Policy is available for inspection during ordinary business hours at the Council principal office, Town of Gawler Administration Centre 43 High Street, Gawler East or is available on the Council website at [www.gawler.sa.gov.au](http://www.gawler.sa.gov.au).

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.