DISTRICT COUNCIL OF Streaky Bay
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# CARETAKER POLICY

| Policy No:<br>**DCSB-G-09.09** | Approved on:<br>**18 March 2025** | Administered by:<br>**Chief Executive Officer** |
|---|---|---|
| Last Reviewed:<br>**March 2025** | Review Date<br>**March 2027** | Record No:<br>**448974** |
| Classification:<br>**Financial Management** | | |
| **Strategic Plan link:**<br>Strategy 1.1.7 Ensure compliance of relevant Council policies and procedures with legislative requirements. | | |
| **References and related Policies, Procedures and Forms:**<br>*Local Government Act 1999*<br>Statutes Amendment (Local Government Review) Act 2021<br>Under Section 91A of the Local Government (Elections) Act 1999<br>DCSB-G-09.01 Code of Conduct for Elected Members<br>DCSB-HR-12.02 Code of Conduct for Council Employees | | |

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## 1. Policy Statement

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

## 2. Definitions

In this Policy:

***Chief Executive Officer*** means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

***Council staff*** means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.

***Council Member*** means an elected member of the District Council of Streaky Bay.

***election period*** means the period:

(a) commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election; and

(b) expiring at the conclusion of the general election.

***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 works, 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).

***general election*** means a general election of council members held:

(a) under section 5 of the Local Government (Elections) Act; or

(b) pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

***Minister*** means the Minister for Local Government or other 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.

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 Employees* gazetted for the purpose of section 110 of the Local Government Act.

## 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 committee of Council; and
- a delegate of Council.

## 5. Prohibition On Use of Council Resources

5.1. Council resources must not be used for the advantage of a particular candidate or group of candidates.

5.2. For clarity, neither the Local Government (Elections) Act 1999 nor this Caretaker Policy prohibits a council providing resources to all members of the public, which incidentally includes all candidates for election.

5.3. The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:

- Mobile phones.
- Council vehicles.
- Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (eg in a public library).
- Council-provided business cards.
- Requests to council employees to perform tasks which would confer an advantage on a candidate or group of candidates.
- The ability to issue invitations to council events.

- Council travel arrangements (eg access to council-negotiated rates for flights, accommodation or hire cars).

- Access to areas that members of the public cannot access, including areas within the property of third parties (eg a 'Mayor's Parlour' at a suburban football oval).

- Councils produced promotional brochures and documents.

## 6. Consequence Of Contravening This Policy

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

6.2. 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.

## 7. Application For Exemption

7.1. 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 and this policy.

7.2. 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 and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption..

## 8. Review And Evaluation

This Policy is scheduled for review March 2027

| **Document History** | **Version No:** | **Issue Date:** | **Description of Change** |
|---|---|---|---|
| | **1.0** | **March 2018** | **Initial Policy** |
| | 2.0 | May 2022 | Changes made to ensure alignment with the incoming Statutes Amendment (Local Government Review) Act 2021 |
| | 3.0 | March 2025 | No Amendments |

## 9. Availability Of Policy

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.streakybay.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's schedule of fees and charges.