

Policy Name:	Supplementary Election Policy
Classification:	Public – Council Policy
Adopted:	26 March 2024
Frequency of Review:	Every four years, approximately six months prior to each general election.
Last Review:	February 2024
Next Review Due:	February 2028
Responsible Officer(s):	Chief Executive Officer Team Leader Governance
Policy Register:	CC10/2601
Council File Reference:	CR23/1745
Legislation Authority:	<i>Local Government (Elections) Act 1999</i> <i>Local Government Act 1999</i>
Related Policies and Codes:	N/A
Related Procedures:	N/A

1. INTRODUCTION

This Policy is required to define Council's position that a supplementary election will not be held in the event a casual vacancy in the office of a member of the council not being the Mayor (meaning a "Councillor" position) occurs, pursuant to section 6(2)(b) of the *Local Government (Elections) Act 1999* (the Elections Act).

2. DEFINITIONS

General election - in relation to a council, means a general election of members of the council (whether held under section 5 of the the *Local Government (Elections) Act 1999* or pursuant to a proclamation or notice under the *Local Government Act 1999* (the LG Act).).

Periodic election - an election to fill offices of a council held pursuant to section 5 of the *Local Government (Elections) Act 1999*.

3. POLICY

3.1 Casual vacancies

Subject to section 54 of the LG Act, the office of the member of a council becomes vacant if the member –

- (a) *dies; or*
- (b) *resigns by notice in writing to the chief executive officer; or*
- (c) *is removed from office by the Governor on the ground of incapacity to carry out official duties satisfactorily; or*
- (d) *is removed from office by the council on the ground that he or she has been absent, without leave of the council, from three or more consecutive ordinary meetings of the council; or*
- (e) *becomes a member of an Australian Parliament; or*
- (f) *is declared bankrupt or applies for the benefit of a law for the relief of insolvent debtors; or*
- (h) *fails to submit a return under Part 14 of the Local Government (Elections) Act 1999 before the expiration of one month from the end of the period allowed under that Act for the submission of the return; or*
- (i) *is convicted of an indictable offence punishable by imprisonment; or*
- (j) *becomes an employee of the council; or*
- (k) *is disqualified from office by an order of a court or SACAT under the LG Act.*

3.2 Legislative Obligations

3.2.1 The provisions relevant to the conduct of a supplementary election/s are prescribed by section 6 of the *Local Government (Elections) Act 1999* and reproduced as follows:

- (1) *Subject to this section, if—*
 - (a) *an election (other than a supplementary election) wholly or partially fails or is declared void; or*
 - (b) *a casual vacancy occurs in the office of a member of a council,*
a supplementary election will be held to fill the office or offices not filled by the election, or the office that has become vacant.
- (2) *A supplementary election will not be held to fill a casual vacancy if—*
 - (a) *the vacancy occurs within 12 months before polling day for—*
 - (i) *a periodic election; or*
 - (ii) *a general election (other than a periodic election) if the date of that polling day is known at the time of the occurrence of the vacancy; or*
 - (b) *—*
 - (i) *the vacancy is for an office other than mayor; and*
 - (ii) *the area of the council is not divided into wards; and*

- (iii) —
 - (A) *if the council has 9 or more offices (excluding the office of mayor)—there is no more than 1 other vacancy in the office of a member of the council; or*
 - (B) *in any other case—there is no other vacancy in the office of a member of the council; and*
 - (iv) *it is a policy of the council at the time the vacancy occurs that it will not fill such a casual vacancy or vacancies until the next general election; or*
- (c) *the vacancy—*
 - (i) *is for an office of a member of the council, other than—*
 - (A) *mayor; or*
 - (B) *a member who was declared elected under section 25(1); and*
 - (ii) *occurs—*
 - (A) *within 12 months after the conclusion of a periodic election or a designated supplementary election; or*
 - (B) *after the close of nominations for a designated supplementary election and before the conclusion of that election,*

*(and can be filled in accordance with section 6A) (the **subsequent vacancy**).*
- (3) *However, if—*
 - (a) *1 or more vacancies have not been filled due to the operation of subsection (2)(b); and*
 - (b) *another vacancy occurs in the office of a member; and*
 - (c) *the other vacancy has not occurred within 12 months before polling day for—*
 - (i) *a periodic election; or*
 - (ii) *a general election (other than a periodic election) if the date of that polling day is known at the time of the occurrence of the vacancy,*

then a supplementary election must be held to fill the vacant offices.

- (4) *If—*
 - (a) *a casual vacancy has occurred; and*
 - (b) *a supplementary election is not to be held by virtue of the operation of subsection (2)(b),*

any subsequent revocation or alteration of a policy of the council in force for the purposes of subsection (2)(b) cannot have effect so as to require the casual vacancy to be filled before the next general election.

3.3 Council's Policy

Pursuant to Section 6(2)(b)(iv) of the Elections Act, a supplementary election will not be conducted in the event that a casual vacancy/vacancies occur until the next general election.

4. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed every four years.

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.

5. FURTHER INFORMATION

Further information about this Policy can be obtained by:

Telephone: 8522 9211

Email: council@gawler.sa.gov.au

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

Letter: PO Box 130, Gawler SA 5118

6. AVAILABILITY OF POLICY

The Policy is available to be downloaded, free of charge, from Council's website at www.gawler.sa.gov.au.

A printed copy may be purchased on request from the Council's Administration Centre.