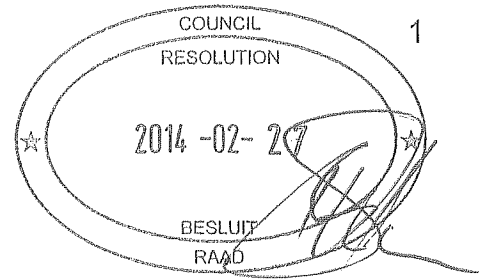


Reference No 73032/1  
Zukiswa Ntsikeni (8150)  
COUNCIL: 27 February 2014



2. CORPORATE AND SHARED SERVICES DEPARTMENT  
POLICY ON DISTRIBUTION OF AMASSED PERSONAL ASSETS  
(From the Mayoral Committee Cluster: Governance: 15 January 2014 and the  
Mayoral Committee: 22 January 2014)

1. PURPOSE

The purpose of the report is to seek approval of the policy to guide the employee on how to distribute his/her personal assets for any eventualities.

2. STRATEGIC OBJECTIVES

The City of Tshwane strategic objectives 4, 5, & 6 (Promote good governance and active citizenry, Improve financial sustainability and Continued Institutional Development, Transformation and Innovation) are addressed in the report.

3. BACKGROUND

When an employee of the City of Tshwane dies and the amassed assets have not been distributed accordingly in the form of a Will and Testament, it has proved to be a major challenge in instances where the deceased is survived by minors.

To protect the interest of the minors, the City of Tshwane has taken upon itself to have in place a document (Annexure A) that will be recommended to all employees new and old on how to distribute the amassed estate to the beneficiaries. This document will be reviewed annually or as and when required by the employee. The employer will ensure that all legislative and regulations requirements governing the estate of the deceased are observed.

4. DISCUSSION

Implications Undistributed personal assets

In the event of death and an employee is survived by minors, it proves to be a challenge if the personal assets have not been distributed to the rightful beneficiaries. This leads to minors being victims of family members who because of being majors may use the assets of the deceased at the disadvantage of the minor/s.

5. COMMENTS OF THE STAKEHOLDER DEPARTMENTS

5.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

Cognisance is taken of the contents of the report as well as the attached Distribution of Amassed Personal Assets Policy.

The purpose of the report is to seek approval of the policy to guide the employee on how to distribute his/her personal assets for any eventualities.

The Group Financial Services Department, in principle, support the objectives of the proposed Distribution of Amassed Personnel Assets Policy.

There are no financial implications emanating as a result of this report.

It should however be noted that the distribution of a pension fund or provident fund benefit is regulated by Section 37C of the Pension Funds Act (Act 24 of 1956).

## 5.2 COMMENTS OF THE GROUP LEGAL COUNSEL

Section 11 (3) (j) and (m) and (n) of the Local Government: Municipal Systems Act 2000 (Act no 32 of 2000) states that a Municipality exercises its legislative or executive authority by *inter alia* monitoring the impact and effectiveness of any services, policies and programmes or plans and passing of bylaws, further doing anything else necessary within its legislative and executive competence.

Sections 156 (a) of the Constitution of the Republic of South Africa 1996 ( Act 108 of 1996) enjoins local government to structure and manage its administration and budgeting and planning process to give priority to the basic needs of the local community and to promote the social and economic development of the community. The Constitution therefore enjoins local government to be developmentally orientated in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities.

The contents of this report are supported and it should be clear that it is the decision of the employee to complete the annexure.

Having regard to the contents of this report, Group Legal Department take cognizance of the reports as well as recommendations outlined herein and contents of this report may be approved.

## 6. IMPLICATIONS

### 6.1 HUMAN RESOURCES

The Human Resource Division of the City of Tshwane will ensure that upon approval of this report that this policy is communicated to all employees.

### 6.2 FINANCES

None

### 6.3 CONSTITUTIONAL AND LEGAL FACTORS

None

### 6.4 COMMUNICATION

Upon approval of the report, it will be circulated using the internal communication channels.

## 6.5 PREVIOUS COUNCIL OR MAYORAL COMMITTEE RESOLUTIONS

None

## 7. CONCLUSION

In eliminating the challenges that are experienced by the minors surviving the deceased, it is important that all employees are made aware of this policy as it offers them an opportunity to distribute their assets accordingly and to the rightful beneficiaries.

This policy only serve as a guide to the employees and it is the decision of the employee to complete Annexure A.

**The Mayoral Committee on 22 January 2014 resolved to recommend to Council as set out below:**

**IT WAS RECOMMENDED (TO THE COUNCIL: 27 FEBRUARY 2014):**

1. That this policy serves as a guide to employees on how to distribute their personal estate.
2. That those employees who do not have a Will and Testament in place be encouraged to take Annexure A into consideration.

**During consideration of this item by Council on 27 February 2014, Cllr HJ Nortje seconded by Cllr J Jansen proposed the following amendment:**

**(Unaltered)**

**“That all recommendations be deleted and replaced by the following:**

1. That this report be referred to the Section 79 Corporate and Shared Services Oversight Committee for further investigation and discussion.”

Since consensus could not be reached on the proposed amendment by Cllr Nortje, the Speaker put the proposed amendment to a vote and declared the results as follows:

For the proposed amendment by Cllr Nortje:	62
Against the proposed amendment by Cllr Nortje:	100
Abstained:	4

In view of the above voting results, the proposed amendment was not accepted, and it was thereafter resolved as set out below:

ANNEXURE:

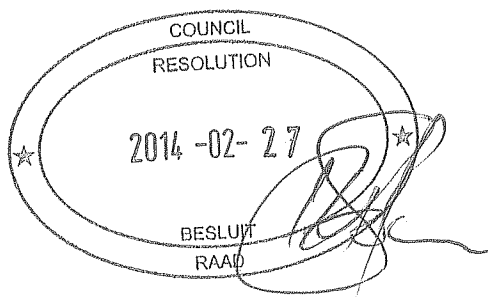
A: asset distribution 12-11-13.docx

**RESOLVED:**

1. That this policy serves as a guide to employees on how to distribute their personal estate.
2. That those employees who do not have a Will and Testament in place be encouraged to take Annexure A into consideration.

**(Remark:**

**At the Council meeting of 27 February 2014, Cllr M Aucamp on behalf of the DA requested that their dissenting vote on the approval of this report be registered.)**



## HUMAN RESOURCES MANAGEMENT

### POLICY ON DISTRIBUTION OF AMASSED PERSONAL ESTATE

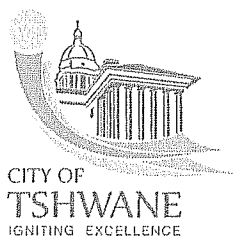
DOCUMENT CONTROL	
POLICY NUMBER:	CoT PO 15/2013
COMPILED BY:	Human Resource Management
EFFECTIVE DATE:	<u>Date recommended/approved by final authority</u>
REVIEW DATE:	
APPROVED BY:	<u>Indicate date approved by all structures/authority</u>
POLICIES REPEALED OR VARIED	None

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## POLICY ON DISTRIBUTION OF AMASSED PERSONAL ESTATE

### 1 INTRODUCTION

When an employee of the City of Tshwane dies and the amassed assets have not been distributed accordingly in the form of a Will and Testament, it has proved to be a major challenge in instances where the deceased is survived by minors.

Sometimes relatives or members of the community distribute these assets without considering the minors who are entitled to benefit from their parent/s personal estates.

To protect the interest of the minors, the City of Tshwane has taken upon itself to have in place a document (Annexure A) that will be recommended to new and old employees to complete if necessary on how to distribute the amassed personal estate to the beneficiaries. This document will be reviewed annually or as and when required by the employee. The employer will ensure that all legislative and regulations requirements governing the estate of the deceased are observed.

A deceased estate comes into existence when a person dies and leaves property and/or a document that is a will or is intended as a will. The estate of a deceased person must be reported to the Master within 14 days of the date of death. (Department of Justice)

### 2 PURPOSE

The purpose of this policy is to provide guidance to the employee on how to dispense his/her amassed personal estate.

### 3 SCOPE

This policy shall apply without exception to all employees of the City of Tshwane though they will not be compelled to complete Annexure A.

### 4 OBJECTIVE

- a. Provide guidance to employees on how dispense their personal assets to a beneficiary/beneficiaries.
- b. The original copy to be kept safely by the employer
- c. The beneficiaries to be notified by the employer within 21 days after the passing on of the deceased.
- d. Employees will be informed about Annexure A and will not be compelled to complete it

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## 5 DEFINITIONS AND ABBREVIATIONS

"Employee" includes a permanent employee or a contractual employee as defined but excludes an independent contractor or its employees.

"Personal Assets" is wealth and things of value accumulated and owned by an individual.

"Beneficiary" is a person who derives advantage from something, especially a trust, will, or life insurance policy

"Estate Executor" is a person appointed by someone making their Will to administer their estate upon their death and in accordance with the terms of their Will

## 6 LEGISLATION AND REGULATION FRAMEWORK

The legislative and regulatory framework related to this policy includes but is not limited to the following:

- a. Intestate Succession Act No. 81 of 1987. If you die without leaving a valid will, your estate will devolve in terms of the rules of intestate succession, as stipulated in the provisions of the Intestate Succession Act, (Act 81 of 1987).
- b. Children's Act 38 of 2005

## 7 RELATED DOCUMENTS

Intestate Succession Act No. 81 of 1987 & Children's Act No. 38 of 2005 are observed by this policy.

## 8 POLICY CONTENTS

### 8.1 ROLE PLAYERS AND RESPONSIBILITIES

#### 8.1.1 EMPLOYER

- a. Will ensure all employees of the City and new employees complete Annexure A
- b. Will guide the employee on how to complete Annexure A
- c. Will make Annexure A available to employee as and when required

#### 8.1.2 EMPLOYEE

- a. List and distribute amassed assets to beneficiaries
- b. Review annexure on an annual basis or as and when required
- c. Distribute assets in percentage (e.g 100%, 25%,25%,25%& 25%)

## 9 COMPLIANCE

Employees will be encouraged to complete Annexure for the interest of the minors.

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## 10 COMMUNICATION

- a) In order for the City of Tshwane to demonstrate its commitment towards the implementation and monitoring of this policy, employees will be informed of the contents of this policy through all channels of communication
- b) The Policy must be communicated to all employees and to any other interested parties, in order to-
  - Increase awareness of the commitments in the policy statement;
  - Explain why the policy is established and maintained; and
  - Guide individuals in understanding their responsibility and accountability in terms of the policy.
- c) Record shall be kept to prove communication of the policy to all affected parties.

### 1. ANNEXURE

#### Annexure A.

NAME OF EMPLOYEE			
EMPLOYMENT NUMBER			
IDENTITY NUMBER			
ADDRESS			
ASSET DISTRIBUTION			
LIST OF ASSETS	BENEFICIARY	% DISTRIBUTED TO BENEFICIARY	CONDITIONS FOR MINORS
Movable(car, bicycles etc)			
Immovable (house, etc)			
Insurance policy/s			
Retirement annuity			
Pension fund			
Shares			
Bank accounts(additional)			
Investments			

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