

Trim Container	FOL/17/1052
First Issued / Approved:	27/06/2017
Last Reviewed:	27/06/2017
	C270617/825
Next Review:	30/06/2019

**1. PREAMBLE**

This Policy outlines the process that will be applied when dealing with applications for an internal review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.

**1.1 Background**

Section 270 of the *Local Government Act 1999* (the Act) requires Council to establish procedures for the review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.

**1.2 Purpose**

The aim of this policy is to provide a fair, consistent and structured process for Council’s customers if they are dissatisfied with a Council decision or service.

**1.3 Scope**

General complaints will be managed in accordance with Council’s Customer Feedback and Complaints Policy.

The Internal Review of Council Decisions Policy will apply to all applications for review of decisions of Council, its employees or other persons acting on behalf of Council, except where other statutory processes are available to the applicant:

- Development Act 1993
- Dog and Cat Management Act
- Electoral Act and under the Local Government (Elections) Act
- Environment Protection Act
- Expiation of Offences Act
- Freedom of Information Act
- Industrial Relations matters
- Council By-Laws and Orders
- Code of Conduct issues
- Conflict of Interest matters
- Decisions made under legislative delegations (Food Act, SA Public Health Act)
- Commonwealth Home Support Program matters

**1.4 Strategic Reference**

Culture: Providing customer-centred services

# INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

Culture: Supporting excellent, efficient operations

## 2. PRINCIPLES

### 2.1 Applicants

Any person who is affected by the decisions made by Council, its employees or other persons acting on behalf of Council, may lodge an application for an internal review of that decision.

### 2.2 Application process

2.2.1 Applications are to be made in writing and include:

- a statement clearly indicating that the applicant wishes to have a decision reviewed under Section 270 of the *Local Government Act 1999*
- detail of the decision to be reviewed
- a statement outlining the reasons for requesting a review; and
- any other relevant information.

2.2.2 Applications should be made within 6 months of the most recent Council decision on a matter, however this timeframe may be extended by the Chief Executive Officer (or nominee) on a case by case basis depending on the review merit.

The application should be addressed to:  
Chief Executive Officer  
City of Holdfast Bay  
PO Box 19  
Brighton SA 5048

### 2.3 Review process

2.3.1 Principles of natural justice will be observed in dealing with all matters. All parties will have the opportunity to express their point of view, provide relevant information, and respond to issues raised.

2.3.2 The Chief Executive Officer will nominate an appropriate Contact Officer who will acknowledge the applicant's request and be responsible for dealing with the application for review (except where an application is considered to be frivolous or vexatious, relates to an alternative statutory appeals process, or where the applicant does not have a sufficient interest in the matter).

The Contact Officer will not include any person who has a personal relationship with the applicant, a personal interest in the outcome of the matter, or previously been involved in the decision which is the subject of the review.

2.3.3 The role of the Contact Officer is to:

- explain the procedure to the applicant and advise them of alternative courses of action available

## INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

- advise the applicant of the expected timeframe for dealing with the matter and the action to be taken in the first instance
  - undertake a preliminary investigation to determine what actions have already been taken to try to resolve the matter
  - keep the applicant informed of progress or changes in timeframe
  - ensure adequate records are maintained
- 2.3.4 The Contact Officer will assess the application, determine the appropriate action and arrange for an independent review if necessary.
- 2.3.5 Some matters will be referred directly to Council for consideration or further consideration, such as Council, Committee or Chief Executive Officer endorsed decisions, Budgetary matters, scope of service delivery matters, or Civic and ceremonial matters.
- 2.3.6 If applications for review relate to the impact that any declaration of rates or service charges may have had on ratepayers, such applications will be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under the Act.
- 2.3.7 When undertaking the review, the Contact Officer's role is to review the decision in question and ensure that the original decision-maker complied with the following procedural requirements and made an appropriate decision:
- The decision must be within a power properly conferred on the decision-maker under the relevant Act
  - A decision-maker must consider all matters which are relevant and not take into account matters which are not relevant
  - A decision-maker must not make a decision or exercise a power or discretion in bad faith or for an improper purpose
  - A decision-maker must ensure that findings of fact are based on evidence
  - Decisions must be reasonable
  - Those who may be affected by a decision must be accorded procedural fairness,
  - A decision-maker must properly consider the application of existing policies
  - A decision-maker must not exercise a discretionary power at the direction of another person.
- 2.3.8 In carrying out a review of a decision, the Contact Officer will consider all the information and material that was before the original decision-maker and any additional relevant information or material provided by the applicant, and make the best decision available on the evidence provided.
- 2.3.9 The Contact Officer, in addition to considering whether the decision is legally and procedurally correct, will also consider whether a different decision would be better, based on the evidence. The merits review

# INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

process, will involve a review of the facts that support a decision, including any new evidence available.

- 2.3.10 Where the Contact Officer's role is only to prepare the matter for Council's review, the Contact Officer must reference the procedural requirements in clause 2.3.7 when preparing reports for Council's consideration.
- 2.3.11 Where a review may result in a professional indemnity or other claim against Council, an Elected Member or Employee, the Chief Executive Officer (or nominee) will provide the LGA Mutual Liability Scheme with summary information about the review within 30 days of the conclusion of the matter.

## 2.4 Procedural Fairness

- 2.4.1 Council will observe the following principles of procedural fairness when exercising its statutory powers which could affect the rights and interests of individuals:
- Give an applicant a right to put their case forward, by giving an applicant the opportunity to provide all relevant documentary evidence.
  - Ensure that the reviewer does not have a personal interest in the outcome.
  - Act only on proper evidence that is capable of proving the case.

## 2.5 Record keeping

- 2.5.1 Employees will keep clear and accurate records of interviews and review actions, focussing on factual information. Documentation will be kept safe and secure, and only relevant parties with a genuine interest will have access to the records.
- 2.5.2 A register of all applications for review will be maintained. A report will be prepared for Councils on an annual basis, detailing the complaints received in the previous year. This information will also be included in Council's Annual Report.

## 2.6 Review timeframe

- 2.6.1 An application for review of a Council decision will be formally acknowledged within 5 working days of receipt, including advice to applicants about the expected timeframe for dealing with the matter.
- 2.6.2 In most cases, applications for review will be considered within 28 days. Applicants will be kept informed by the Contact Officer about the progress of the review, and advised in writing of the outcome of the review procedure and process.

## 2.7 Remedies

# INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

2.7.1 Where the review of a decision upholds the applicant's grievance, a remedy or response will be determined which is consistent and fair for both Council and the applicant. The remedy chosen will be proportionate and appropriate to the failure identified and may include, but is not limited to:

- returning the situation to its original status
- an explanation
- an apology or admission of fault
- a change to policy, procedure or practice
- a correction to Council records
- financial compensation or the waiving of a debt
- the remission of a penalty or remedial action
- disciplinary action
- referral of a matter to an external agency for investigation or prosecution.

2.7.2 Any action required will be undertaken promptly, and consideration given to whether changes are required to prevent the situation being repeated.

## 2.8 Options for Review available to applicants

2.8.1 Applicants may seek external review through the SA Ombudsman, other legal appeal processes, or the Courts at any time during the internal review process. When advising an applicant of the outcome of a review, applicants will be advised of other options for review, any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

## 2.9 Policy Review

2.9.1 In order to ensure Council continues to provide the best possible service response for its customers, this policy is subject to periodic evaluation and review.

## 2.10 Availability of the Policy

This Policy will be available for inspection at Council's principal office during normal business hours and at Council's website [www.holdfast.sa.gov.au](http://www.holdfast.sa.gov.au).

## 3. REFERENCES

3.1 Legislation

*Local Government Act 1999*

3.2 Other References

Customer Feedback and Complaints Procedure