



Council Policy: Internal Review of Council Decisions

Classification:	Council Policy
First Issued:	7 November 2000
Dates of Review:	2002, 2012, 2015, 2017
Next Review Date:	2021
Version Number:	5
Objective ID:	A5158
Applicable Legislation:	<ul style="list-style-type: none"> • Local Government Act 1999 (SA) • Government Business Enterprise (Competition) Act 1996 (SA)
Related Policies or Corporate Documents:	<ul style="list-style-type: none"> • Customer Complaints Council Policy • Whistleblowers Policy • Rate Rebates, Remissions and Postponement Policy
Associated Forms:	<ul style="list-style-type: none"> • Internal Review of a Council Decision Form
Note:	
Responsible Manager:	General Manager Business and Community Services
Confirmed by Executive:	Date March 2017
Approved by Council:	Date 21 March 2017

Table of Contents

- 1. Preamble..... 3
- 2. Purpose..... 3
- 3. Scope 3
- 4. Definitions 4
- 5. Principles..... 5
- 6. Procedure 6

COUNCIL POLICY - Internal Review of Council Decisions

1. Preamble

- 1.1 Council is committed to open and transparent decision making processes and to providing access to a fair and objective procedure for the internal review of its decisions, the decisions of its officers or people acting on behalf of Council.
- 1.2 Council will attempt to resolve all complaints about decisions of Council, its officers or people acting on behalf of Council without the need for formal review requests to be lodged, however, this may not always be possible.
- 1.3 This policy is developed in accordance with section 270 of the [Local Government Act 1999](#) (the Act).

2. Purpose

- 2.1 To describe the principles and processes to be used when managing formal requests for the internal review of council decisions including registration, investigation, resolution and reporting.
- 2.2 To ensure that the process for managing an internal review of a council decision is fair, effective, transparent, consistent and timely.
- 2.3 To facilitate the use of information obtained from the internal review process to improve overall service delivery.
- 2.4 To ensure the objective analysis and assessment of the process originally undertaken in reaching the decision that is being disputed.

3. Scope

This Policy:

- 3.1 Only applies in those instances when a formal request for an internal review of a council decision is made.
- 3.2 Applies to those decisions made by:
 - The Council
 - Employees of the Council
 - Other persons acting on behalf of the Council, which have resulted or will result in an administrative act of the Council.
- 3.3 Does not apply to applications made by employees that relate to an issue concerning their employment. Such applications will be dealt with in accordance with the *Review of an Employment Related Decision - Employee Initiated Administration Policy*.
- 3.4 Will not apply when an alternative statutory process for review exists in other legislation, i.e:
 - [Development Act 1993](#) - appeals to the Environment, Resources and Development Court.
 - [Freedom of Information Act 1991](#) - request for an Internal Review
 - Review by the [SA Ombudsman](#).

- Courts in respect to a s255 of the Act, Order to Environment, Resources and Development Court.
- Public and Environmental Council under the *Public and Environmental Health Act 1987*, which was repealed by the [South Australian Public Health Act 2011](#).

3.5 Does not exclude other rights and remedies available at law.

4. Definitions

- 4.1 An **Applicant** is any person who makes an application for an internal review of Council decision
- 4.2 A **Council Decision** is a decision of Council, an employee of Council made under delegation or by other people acting on behalf of Council.
- 4.3 **Elected Member/s** is the term used to define all members of Council, including the Mayor.
- 4.4 An **Employee** is any individual who is employed by CWT and includes agency staff and contractors.
- 4.5 A **Frivolous or Trivial complaint** is a complaint that is considered by the relevant departmental manager to be minor or without merit and therefore not worthy of action or when the resources required to address such complaints would be an unreasonable diversion of public resources.
- 4.6 An **Initial Review** is a review by the manager, or the reviewing officer designated by the manager, within the responsible area.
- 4.7 An **Internal Review of a Council Decision** is a review of a decision made by Council, its employees, or other people acting on behalf of Council. The request must arise from a grievance with a Council decision on access to a service, the way in which that service is delivered, or the application of regulatory powers.
- 4.8 For the purposes of this policy, **Manager** refers to a member of the management team.
- 4.9 **Personal Information** is any information or opinion that identifies a person.
This could include:
- written records about a person
 - a photograph or image of a person.
- 4.10 The **Reviewing Officer** is the employee assigned to undertake an internal review of a council decision.
- 4.11 A **Vexatious Complaint** is any complaint:
- from a complainant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and new no information has been provided by the complainant.
 - which the department manager, considers to be mischievous, without sufficient grounds or serving only to cause annoyance.

5. Principles

5.1 Commitment

5.1.1 Council commits to:

- treating all applicants with respect and courtesy.
- responding to applicant requests and enquiries promptly and efficiently.
- acting with integrity and honesty when dealing with applicants.
- providing relevant and timely feedback to the applicant.

5.1.2 All applications for an internal review of a council decision will be considered on their merits, the principles of natural justice will be observed and complainants will not suffer any reprisal from CWT for requesting an Internal Review of a Council Decision.

5.2 Privacy and Confidentiality

5.2.1 When a request for review is referred to the Elected Council for determination, the Council may consider the matter in confidence when it is lawful and appropriate to do so, subject to one of the clauses under Section 90(3) of the [Act](#) being satisfied.

5.2.2 The applicant's personal information will be used by the reviewing officer in relation to investigating and reviewing the application.

5.2.3 If the application is referred to the Ombudsman, the CWT will share any relevant information relating to the application with the Ombudsman in accordance with the [Ombudsman Act 1972](#).

5.2.4 Information contained within the application may be accessible under the [Freedom of Information Act 1991](#).

5.2.5 An applicant may apply directly to the CWT to suppress their personal details by completing and submitting an application form. Forms are also available from Council's Civic Centre and the Hamra Centre Library.

5.2.5.1 The CEO will assess the application and may suppress the applicant's name or address details if the CEO is satisfied that the applicant's personal safety or that of any other person is at risk. Acceptance of such applications is at the discretion of the CEO.

5.2.6 CWT will respond to complaints alleging misuse of personal information within five (5) business days.

5.3 Data Collection

Statistical information may be used to identify areas/services/procedures that require review or that may need additional resources to provide the required level of service for customers.

5.4 Reporting

In accordance with Section 270(8) of the [Act](#), the CWT will provide a report in each annual report on the requests for an internal review of a council decision under this policy which will include:

- The number of requests for review received in the relevant financial year
- The matters to which the applications relate
- The outcome of the subsequent reviews, and
- Any other matter prescribed by Regulation

6. Procedure

6.1 Applications for a Review of a Council Decision

6.1.1 Requests for an Internal Review of a Council Decision may be lodged by any person with sufficient interest in a decision of Council within six (6) months of the original decision.

6.1.2 Council may, at its discretion, waive the six (6) month time limitation.

6.1.3 Requests must be in writing, provide full details of the decision of Council, for which the applicant is seeking a review, including how the decision impacts on their rights and/or interests, and should be addressed:

If posted, to:

**The Chief Executive Officer
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033**

If emailed, to:

**The Chief Executive Officer
City of West Torrens
csu@wtcc.sa.gov.au**

If faxed, to:

**The Chief Executive Officer
City of West Torrens
Facsimile: (08) 8443 5709**

6.1.4 If necessary, assistance will be provided to applicants to lodge a formal request for an Internal Review of a Council Decision using the Application for Internal Review of a Council Decision Form, available from Council's website www.westtorrens.sa.gov.au or from the Civic Centre. The CEO or their delegate may amend this form from time to time to suit operational needs.

6.1.5 The CEO is responsible for coordinating any requests for an internal review of council decision.

6.1.5 The CEO may refuse to consider an application if:

- s/he considers the matter to be trivial, frivolous or vexatious, lacks substance or credibility and therefore investigating the application is deemed unnecessary, unjustifiable or an inappropriate use of resources
- the applicant does not have sufficient interest in the matter.

In these instances the CEO will advise the applicant accordingly.

6.2 Application Assessment Model

6.2.1 The CEO will assess and determine all requests for an internal review of council decision and decide what action, if any, should be taken. This may include direct referral of the matter to the Elected Council, or to a person independent of the Council, to conduct the review. The CEO may elect to appoint another officer, independent of the original decision, to review the application e.g:

- A member of the Executive Management Team.
- A senior officer independent of the original decision,
- An internal review panel set up for that express purpose (i.e. It does not have permanent status),
- An independent review panel, mediation, conciliation or neutral evaluation.

6.2.2 Requests which will be directly referred to the Council for consideration or reconsideration include those regarding:

- Decisions made by the Council via a formal resolution
- Civic and ceremonial matters
- Any other matters at the discretion of the CEO.

The applicant must be informed if an application is referred to Council.

6.3 Time Frame and Progress Notification

6.3.1 An application for an internal review of council decision will be acknowledged in writing within five (5) business days of receipt and will include advice about the expected timeframe for dealing with the matter.

6.3.2 In most cases, applications for an internal review of council decision will be assessed within 21 business days. However, in some circumstances the review process may take longer and, in this instance, the applicant will be advised.

6.3.3 The applicant will be kept informed about progress of the review if it exceeds 21 business days

6.3.4 If a request for an internal review of council decision has been referred to Council, the applicant will be advised of the date that the matter will be presented and be given the opportunity to provide a verbal submission, via a deputation, in relation to the report submitted by the CEO for Council's consideration.

6.4 Opportunity to Provide Additional Information

- 6.4.1 After initially assessing an application for an internal review of council decision, the reviewing officer will (if deemed appropriate) invite the applicant to provide further information to assist in understanding the applicant's concerns, issues to be investigated and the outcome or remedy sought.
- 6.4.2 Applicants are able to supply information relevant to the initial application at any time during the review process. However, if the additional information is determined by the reviewing officer to be of a different nature the applicant will be advised of the need to submit a separate application for an internal review of council decision.

6.5 Independent Review

- 6.5.1 At its absolute discretion, the Council may use alternate dispute resolution methods such as mediation, conciliation or natural evaluation to resolve an application in circumstances when the CEO or his/her delegate deems such a course of action appropriate and the applicant is amenable to that process.
- 6.5.2 Costs and expenses associated with mediation and/or conciliation will be shared equally between the Council and the other party in accordance with s271 of the [Act](#).
- 6.5.3 Applicants will be encouraged to participate cooperatively in the review process. However, this will not negate the applicant's right to seek external review through the [SA Ombudsman](#), other legal processes, or the judiciary at any time during the independent review process.

6.6 Applications relating to Rates

- 6.6.1 Council acknowledges its obligations to respond promptly to any request relating to the impact that a declaration of rates or service charges may have on ratepayers in accordance with s270 of the [Act](#).
- 6.6.2 As part of the process the Council or CEO (as part of the review process) will consider, if appropriate, the provisions available to ratepayers for rate relief or concessions as set out in the [Act](#). The process for consideration is detailed in the *Council Policy - Rate Rebate, Remissions and Postponement*. Council can also offer alternate payment arrangements in its endeavours to assist ratepayers to meet their debt.

6.7 Matters regarding Competitive Neutrality Pricing

- 6.7.1 Matters regarding competitive neutrality pricing should be referred to the [Australian Competition and Consumer Commission](#) (ACCC). The ACCC is an independent statutory authority appointed under the [Government Business Enterprise \(Competition\) Act 1996](#).

6.8 Outcome of Review

- 6.8.1 The outcome an internal review of a council decision will result in the original decision being upheld or overturned.
- 6.8.2 The applicant will be advised in writing of the outcome of the review within 5 business days of a determination being made.

- 6.8.3 Applicants who are unhappy with any stage or outcome of an internal review of council decision are at liberty to submit a complaint to the [SA Ombudsman](#) or seek other legal remedies.