

CITY OF WEST TORRENS



## Council Policy: Internal Review of Council Decisions

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<b>Applicable Legislation:</b>	<ul style="list-style-type: none"> <li>• <a href="#">Local Government Act 1999</a> (SA)</li> <li>• <a href="#">Government Business Enterprises (Competition) Act 1996</a> (SA)</li> </ul>
<b>Related Policies or Corporate Documents:</b>	<ul style="list-style-type: none"> <li>• <a href="#">Customer Complaints Council Policy</a></li> <li>• <a href="#">Public Interest Disclosure Council Policy</a></li> <li>• <a href="#">Rate Rebates, Remissions and Postponement Policy</a></li> <li>• <a href="#">Expiation Notice Decision Review Policy</a></li> </ul>
<b>Associated Forms:</b>	<ul style="list-style-type: none"> <li>• <a href="#">Internal Review of a Council Decision Form</a></li> </ul>
<b>Note:</b>	
<b>Responsible Manager:</b>	<b>General Manager Communities</b>
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## 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

The purpose of this policy is:

- 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.
- 2.5 To collect statistical information to identify areas/services/procedures that require review or that may need additional resources to provide the required level of service for customers.

### 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, which include but are not limited to:

- *Planning, Development and Infrastructure Act 2016* - appeals to the Environment, Resources and Development Court.
- [Freedom of Information Act 1991](#) - request for an Internal Review.
- *Expiation of Offences Act 1996* - Review of expiation notices.
- appeals against the issuing of litter abatement notices under the *Local Nuisance and Litter Control Act 2016*.
- Review by the [SA Ombudsman](#).
- Courts in respect to a s255 of the Act Order to Environment, Resources and Development Court.
- Public Health Review Panel under the [South Australian Public Health Act 2011](#).
- 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](#).

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 a 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 Reviewing Officer 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 **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.

4.7 **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.

4.8 The **Reviewing Officer** is the employee assigned to undertake an internal review of a council decision by the CEO.

4.9 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 no new information has been provided by the complainant.
- which the Reviewing Officer considers to be mischievous, without sufficient grounds or serving only to cause annoyance.

## 5. Applications for a Review of a Council Decision

5.1 Customers must be directed to the *Customer Complaints Policy* and complete this process prior to making an application for a review of a Council decision.

5.2 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.

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

5.4 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**

5.5 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](http://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.

5.6 An application for review must be accompanied by the prescribed fee.

5.7 The CEO is responsible for coordinating any requests for an internal review of council decisions.

## 6. Initial Assessment

6.1 The CEO may elect to appoint another officer, independent of the original decision, to assess the application (Reviewing Officer) 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 external consultant;
- An independent review panel; or
- Mediation, conciliation or neutral evaluation professionals.

6.2 The CEO, or the Reviewing Officer, will assess and determine what action, if any, should be taken.

6.3 At its absolute discretion, the Council may use alternative dispute resolution methods such as mediation, conciliation or natural evaluation to resolve an application in circumstances when the CEO or the Reviewing Officer deems such a course of action appropriate and the applicant is amenable to that process.

- 6.3.1 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](#).
- 6.4 The CEO, or the Reviewing Officer, may refuse to consider an application if:
- they consider 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;
  - they are satisfied that the subject matter of the application has been or is already the subject of a review by the council or an investigation, inquiry or review by another authority.

In these instances the CEO will advise the applicant accordingly.

- 6.5 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.

## 7. Application Investigation

- 7.1 Applications will be reviewed against relevant policies, procedures and legislative instruments, taking into account the processes undertaken by the relevant original decision maker.
- 7.2 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.
- 7.3 The applicant's personal information will be used by the reviewing officer to investigate the application.
- 7.4 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.

- 7.5 When a request for review is referred to the 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.
- 7.6 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 review process.
- 7.6.1 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](#).

## 8. Time Frame and Progress Notification

- 8.1 An application for an internal review of council decision will be acknowledged in writing within five (10) business days of receipt and will include advice about the expected timeframe for dealing with the matter.
- 8.1.1 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.
- 8.2 In most cases, applications for an internal review of council decision will be assessed within 30 days. However, in some circumstances the review process may take longer and, in this instance, the applicant will be advised.
- 8.3 The applicant will be kept informed about progress of the review if it exceeds 30 days.
- 8.4 If a request for an internal review of a 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.

## 9. Outcome of Review

- 9.1 The outcome of an internal review of a council decision will result in the original decision being upheld, varied or overturned.
- 9.1.1 If the Reviewing Officer overturns a decision but does not have appropriate delegation to enable the making of the decision, the Reviewing Officer will report the outcome of the review to the appropriate General Manager.
- 9.1.2 Where the Reviewing Officer is an external person or body, the Reviewing Officer will report the outcome of the review to the Council or delegate as to whether the decision should be upheld, varied or revoked. An external person or body cannot vary or revoke a decision made by or on behalf of Council.
- 9.2 The applicant will be advised in writing of the outcome of the review within 5 business days of a determination being made.
- 9.3 A reason for the determination will be provided to the applicant where:
- A decision is not in accordance with a policy or procedure;
  - A decision is likely to detrimentally affect the rights or interests of individuals (or groups) in a material way; or
  - Conditions are attached to any approval, consent permit, licence or other authorisation.
- 9.4 Applicants who are unhappy with any stage or outcome of an internal review of a council decision are at liberty to submit a complaint to the [SA Ombudsman](#) or seek other legal remedies.
- 9.5 Information contained within the application may be accessible under the [Freedom of Information Act 1991](#).

## **10. Reporting and Records Management**

10.1 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.

10.2 All documents, notes, photographs, reports and correspondence must be retained and stored in Council's document management system.