District Council of
Loxton Waikerie

INTERNAL REVIEW OF A COUNCIL DECISION PROCEDURE

Responsible Officer/s	Director Commercial and Community Services Personal Assistant to Director Commercial and Community Services Commercial and Community Services
Relevant Legislation / Documents	Local Government Act Customer Service Policy, Complaints Handling Policy, Fraud & Corruption Policy Complaints Handling Procedure Works Request Procedure Protocol – Ombudsman Enquiry Procedure
Adopted	23 June 2000
Reviewed	17 December 2025
Next Review	17 December 2027

A. Purpose

The Council will review certain types of decision in accordance with this procedure. This document sets out:

a) the decisions which are subject to review;
b) the method of applying for a review;
c) the review process; and
d) record keeping requirements.

This procedure is required by section 270(1) of the Local Government Act 1999 and forms part of the Council's processes for dealing with complaints.

B. Objective

Council's commitment

Council, its committees, staff and contractors make decisions every day which impact on members of the community. It is imperative that these decisions are fair, objective and subject to review.

Council is committed to open, responsive and accountable government. This includes providing processes by which citizens adversely affected by a decision of Council can have their grievances considered.

This procedure will be widely accessible to ensure that customers are fully aware of their right to request the review of a decision and the process that will be followed.

Everyone will be treated equally, in accordance with good administrative practice. Council's procedures are designed to ensure that:

- Every person has the opportunity to make an application for review of a decision covered by this procedure
- An unbiased review is undertaken
- Outcomes of a review are based on sound evidence
- Applicants receive information about the outcome of the review.

C. Procedure

1. Customer Complaints

This procedure forms part of the Council's Complaints Handling Procedure. The Complaints Handling Procedure is available to the public.

In summary, the Council has a three-tier process for managing complaints.

i) Immediate response to resolve the complaint

All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level.

ii) Complaint escalated to a more senior officer

A complaint will be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. This may occur, for example, where an officer has been involved in the matter that is the subject of the complaint, where the complaint is about an issue that requires a decision to be made at a more senior level, or where a complaint concerns a matter that ranges across more than one Council work area.

iii) Internal review of a Council decision by statutory process

Internal review of a Council decision is available under section 270 of the Local Government Act 1999 . This is a process established by legislation that enables a Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant. This process is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means, such as a complaint about a decision of the Chief Executive Officer.

An application for review should only be made once the other mechanisms under the Complaints Handling Procedure have been undertaken as these may resolve the matter more quickly. As the third tier in Council's complaints handling process, review under this procedure will generally apply when matters cannot be resolved satisfactorily under the other two tiers.

2. Key Principles

The procedure for reviewing decisions is based on five principles. These principles are:

- Fair treatment: which requires impartiality, confidentiality and transparency at all stages of the process

- Accessibility: to be accessible there must be broad public awareness about Council's policies and procedures and a range of contact options
- Responsiveness: this will be achieved by providing sufficient resources, well trained staff and ongoing review and improvement of the systems
- Efficiency: requests and complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity
- Integration of different areas of Council where the matter under review overlaps functional responsibilities.

3. Decisions subject to review

Decisions of:

a) the Council;
b) employees of the Council; and
c) other persons acting on behalf of the Council,

may be subject to review under this procedure. The nature of this review is a merits review which could lead to the original decision being affirmed, varied or revoked.

Not all actions by a Council, employees of a Council or other person acting on behalf of a Council will be a decision. For example, actions taken during the process of decision-making (ie investigations, requests for further information, internal consideration of the matter or referral of the matter to an external adviser) are not decisions. A decision is made when a matter, issue or query is actually determined. Once a matter, issue or query is determined, the decision may be susceptible to review in accordance with this procedure.

Some decisions made by the Council, a Council employee or on behalf of the Council are subject to review or appeal processes set out in legislation. This procedure cannot override or operate inconsistently with these statutory processes. Consequently where legislation provides for the review of, or appeal from, a type of decision, a decision of that type will not be reviewed under this procedure.

Examples include:

a) objections to valuations made by the Council;
b) appeals against orders made pursuant to section 254 of the Local Government Act;
c) appeals against the issuing of litter abatement notices under the Local Nuisance and Litter Control Act 2016;
d) appeals against destruction and control orders issued under the Dog and Cat Management Act 1995;
e) review of an expiation notice under the Expiation of Offences Act 1996; and
f) external review processes under the Development Act 1993 and the Freedom of Information Act 1991.

Where legislation specifically excludes a type decision from review either expressly or by necessary implication, this procedure cannot operate inconsistently with that legislation. Similarly, a review under this procedure could not vary or revoke a decision which has operative effect under legislation from the time the decision is made. For example, some development

approvals under the Development Act are intended to have operative effect from the time the decision is made and are not capable of being varied or revoked by Council.

Where legislation specifically provides for an internal review process, that process will apply rather than the process set out in this procedure. For example, internal review of a determination under the Freedom of Information Act or withdrawal of an expiation notice issued by the Council under section 16 of the Expiation of Offences Act.

4. Applying for a review

4.1 Who can apply?

A person with a sufficient interest in a decision of the Council, a council employee or person acting on behalf of the council, may make a written application for a review of that decision. An application for a review of a decision can be made within 6 months of the decision being made (unless a longer period for submitting a particular application is approved by Council.

A person who is not the direct subject of a decision may have a sufficient interest in the decision to seek a review under this procedure. For example, a person may have a sufficient interest in a Council decision regarding the number of dogs which may be kept within a neighbour's property).

4.2 Internal Review Contact Officer

An Internal Review Contact Officer (IRCO) appointed by the CEO is the initial point of contact for applicants.

The role of the IRCO is to:

- explain the procedure to the applicant and explore any alternative options to resolve the matter, such as alternative dispute resolution prior to an application for review;
- acknowledge the receipt of an application for review;
- maintain a register of all applications for review received and the outcomes of the applications;
- outline the timeframes involved 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;
- ensure adequate records are maintained; and
- report to Council at prescribed intervals on all applications lodged for review.

All applications for review are to be referred to the IRCO immediately.

A person seeking review of a Council decision who attends at the Council's offices personally or by telephone call should be referred to the IRCO. The IRCO will discuss this procedure with the person and indicate that an application for review must be lodged in writing.

4.3 Assistance with applying for review

It is essential that no one is excluded from lodging an application for review because of any difficulties they may have representing themselves. All Council staff are expected to offer

assistance where appropriate and provide it on request, including assistance in documenting the reasons for the review in writing when circumstances warrant.

If necessary, access to interpreters, aids or advocates should be arranged to ensure that an applicant is treated equitably and has access to the review process.

4.4 Form of application

An application for review must be in writing and set out the reasons for applying for the review (that is, why the applicant believes that the decision is wrong). Although Council can be expected to have information and material relevant to the matter under review, an application for review may also include additional, relevant information or evidence to support the application.

4.5 Council response to an application

The IRCO is responsible for:

a) determining whether or not the decision is subject to review under this procedure;
b) working in conjunction with the appropriately delegated officer to determine how the review will be handled;
c) advising the applicant of the process to be undertaken and the time of the next contact; and
d) ensuring the application is properly lodged and assigned.

Applications for a review of a decision must be responded to within 10 business days, acknowledging receipt and advising of the expected timeframe for dealing with the matter.

Council will use its best endeavours to ensure that a review of the decision will be completed within 21 business days. However if the decision is to be reviewed by the elected Council, a Council committee or an external investigator reporting to the elected Council or Council committee, there may be delays caused by meeting cycle timelines. In more complex cases, a review may take longer.

The applicant will be regularly informed of progress, either by email, letter or telephone.

The Council is entitled under the Local Government Act to refuse to consider an application for review if:

a) the application is made by an employee of the Council and relates to an issue concerning his or her employment;
b) it appears that the application is frivolous or vexatious; or
c) the applicant does not have a sufficient interest in the matter.

Where a matter has been referred to the Local Government Association Mutual Liability Scheme (LGAMLS) in respect to a claim or potential claim against the Council or in response to a threat of legal action against the Council, an application for review of a decision in connection with that claim or action (including the decision to refer the matter to the LGAMLS) will be vexatious.

4.6 Applications for a review of the impact of rates or services charges

If the Council receives an application for a review of a decision concerning the financial impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council will consider financial relief or the granting of concessions in line with the provisions of the Local Government Act.

5. Undertaking a review

5.1 Reviewer

The Elected Council will be the reviewer:

- when the decision being reviewed was made by a committee of the Council or the CEO;
- when the decision relates to civic and ceremonial matters; and
- in other circumstances as determined by the CEO or resolution of the Council.

Where the decision is a decision of the elected Council, the reviewer will be an external person or body who will report the outcome of the review to the Council. The Council will consider the outcome of the review and determine whether to affirm, vary or revoke the reviewed decision.

Where the elected Council is not the reviewer, a reviewer will be chosen from the following:

- CEO
- A panel comprised of Council Members and Senior Staff
- An external person or body

Wherever possible and appropriate, Council will seek to involve an external person or panel to assist with the review, including the enlistment of employees of other Councils.

5.2 Role of reviewer

The reviewer will undertake a merits review of the decision.

The reviewer should consider all materials and information which were available to the original decisionmaker and any additional relevant material and information which has been provided or become available during the course of the review.

The reviewer will 'stand in the shoes' of the original decision-maker and determine the decision appropriate on the basis of the relevant circumstances and available information and materials.

5.3 Providing 'Procedural Fairness'

The reviewer will observe the principles of procedural fairness (also called 'natural justice') when undertaking the review.

To observe the principles of procedural fairness:

- an applicant is entitled to put forward information and materials in support of the application for review;
- be informed of the proposed outcome of the review, have the opportunity to make submissions to the reviewer on the outcome and have these submissions taken into account; and
- the reviewer must not have a bias or perceived bias in respect of undertaking the review.

5.4 Providing reasons

While there is no statutory requirement to give reasons for a decision, Council will always give reasons to explain the outcome where:

- a decision is not in accordance with a Council policy;
- a decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way; or
- conditions are attached to any approval, consent, permit, licence or other authorisation.

5.5 Refusing an application for review

Council, or a person assigned to consider the application, may refuse to consider an application for review if:

- the application is made by an employee of the Council and relates to an issue concerning his or her employment;
- it appears that the application is frivolous or vexatious; or
- the applicant does not have a sufficient interest in the matter.

Refusing an application for review will not be done lightly and reasons for the refusal will document the evidence on which a refusal is based.

5.6 Outcome of review

Where the reviewer is the elected Council, the Elected Council should determine whether to affirm, vary or revoke the original decision.

Where the reviewer is a Council employee, the employee may determine whether to affirm, vary or revoke the original decision if authority to make the decision has been delegated to that employee. If the reviewer does not have a delegation enabling the making of the decision, then the reviewer should report the outcome of the review to the elected Council (or delegate) f or a determination as to whether the decision should be affirmed, varied or revoked.

Where the reviewer is an external person or body then the reviewer should report the outcome of the review to the elected Council for a determination as to whether the decision should be affirmed, varied or revoked. An external reviewer cannot vary or revoke a decision made by or on behalf of Council.

6. Records management

All documents, notes, photographs and correspondence must be retained and stored in accordance with Council's Records Management protocols as required by section 125 of the Local Government Act.

All applications must be recorded in Council's records management system in such a way that the information can also be analysed for service improvement opportunities.

The IRCO will submit a report to Council annually about section 270 applications for review of a decision, including:

- the number of applications for review made under this procedure;
- the types of matter to which the applications relate;
- the outcomes of applications under this procedure; and

- any other matters as may be prescribed by the regulations.

The IRCO will also report on how the outcomes have been used to improve Council's customer service, policies, procedures and practices.

This information, as specified in section 270(8), will be included in Council's Annual Report.

D. Availability

This Policy will be available for inspection at the Council Offices at Loxton or Waikerie during ordinary business hours at no charge.

Copies of this Policy will also be available from Councils website: www.loxtonwaikerie.sa.gov.au or postal copies may be obtained from the Council Office, to be charged at the scheduled rate according to the fees and charges register.

This policy will be available in Council's Electronic Document Management System (Content Manager).

E. Document history and version control

Date	Version	Authorisation	Amendment Details
17/02/2017	3	Council	Amendments to note the additions with the LGA Model (October 2015) which include a notation for the Dog and Cat Management Act and amendments required to meet compliance with the Ombudsman SA review.
19/03/2021	4	Council	Amendments to reflect the LGA Model document 2017
20/09/2023	5	Council	Review and updated onto new template
17/12/2025	6	Council	Review and updated onto new template