





Summary

Objective

There is a requirement under section 270 of the Local Government Act 1999 that Council has policies, procedures and practices in place for dealing with requests to review Council decisions

Background

This procedure should be read in conjunction with the Independent Review of Decision Policy and outlines the process to be followed in such a review.

Owner Kym Elder

Expert Kym Elder

Procedure

1.0 Lodge Application for Independent Review of Decision

Member of the Public

NOTE Every attempt is made to resolve the matter through Council's Complaint Resolution process (Insert LINK)

- a** An application is lodged by completing the Independent Review of Decision request form and addressed to the CEO. Request is forwarded to the Internal Review Contact Officer (IRCO) for acknowledgement and to ensure completeness and clarity of decision to be reviewed. All requests for a review of a Council decision will be formally acknowledged in writing within 5 business days of receiving the request. The applicant will be advised of the expected timeframe within which a determination will be made in respect of their request for review. In most cases, requests for internal review of Council decision will be considered and determined within 20 business days.
- b** Within the initial 5 days to respond to the applicant and initial request will commence with the relevant decision makers on the matter to ensure context and clarity is obtained to communicate with the applicant.

2.0 CEO receives application, acknowledges and appoints 'Reviewer'

Chief Executive Officer

- a** The CEO will consider all requests for a review as submitted and may refuse to assess such an application if, pursuant to section 270(4) of the Act:
 - a.** The request is made by an employee of the Council and relates to an issue concerning the employee's employment
 - b.** It appears that the request is frivolous or vexatious (Refer to Policy for definitions)
 - c.** The applicant does not have a sufficient interest in the matter
- b** All requests must be in writing to the CEO, preferably on the Independent Review Application Form (available on Council's website). (ATTACH)

3.0 IRCO contacts applicant

Internal Review Contact Officer (IRCO)

- a** IRCO is the Internal Review Contact Officer who is appointed to act as liaison between Council and the applicant.
- b** On discussion with the CEO determine if alternate dispute process is more suitable and provide contact details
- c** The IRCO will create a communications folder for the purpose of keeping records relating to Independent Review requests.

4.0 Appoint Reviewer

Chief Executive Officer, Elected Members

- a** If the decision under review was made by a resolution of Council then application for the review of that decision will be referred to the Council (Elected Body).

NOTE The Council may be appointed as the body which determines the outcome of the review if: **a) the decision relates to civic and ceremonial matters, or b) as determined by the CEO or by resolution of the Council.**

- b** If the decision under review is a decision that was made by the CEO, then a Director who has not had involvement in the decision and whose responsibilities fall outside of the issues relevant to the review will be responsible for appointing a person external to the Council as the Reviewer, in consultation with the Mayor (i.e. who will investigate and report back to Council for its determination).
- c** If the decision under review was made by an officer or an agent of the Council, then the CEO will appoint a Reviewer who will investigate and report back to the CEO for their determination. The Reviewer may be a senior Council officer who has no association with the matter under review.

NOTE The Reviewer can be a senior Council officer with no association with the matter under review, the CEO or a person independent of the Council. Where the decision under review is complex and/or raises legal questions an external investigator may be appointed as the Reviewer

NOTE The IRCO will contact the applicant advising who the 'Reviewer' is.

5.0 Conduct Review

Reviewer

- a** The role of the Reviewer is to review the decision in question to ensure that the decision-maker complied with all procedural requirements and made the best possible decision in the circumstances.
- b** In undertaking the review, the Reviewer must consider both the procedure leading to the decision and the merits of the decision. The Reviewer is required to determine and report upon whether it was the correct and preferable decision in all of the circumstances.

- c Matters to be considered by the Reviewer in assessing the legality of the decision and whether it is the 'correct and preferable' decision include (without limitation):
 - the legislative powers pursuant to which the decision is made;
 - the application and affect of relevant Council policies in relation to the decision;
 - whether all matters relevant to the decision were taken into account;
 - that the decision was made in good faith and not for any improper purpose;
 - whether the decision was objectively reasonable and appropriate in all of the circumstances.
- d The Reviewer is responsible for ensuring that
 - findings of fact are based on evidence;
 - any recommendations to resolve the matter are reasonable; and
 - that procedural fairness is accorded to all parties as necessary;
- e Procedural fairness

Council will observe the principles of procedural fairness (also called 'natural justice') when exercising its statutory powers in a manner that adversely affects the rights and interests of individuals.

In the context of a section 270 review, procedural fairness involves:

 - giving the applicant adequate opportunity to put their case forward and to provide relevant information;
 - ensuring that the Reviewer is objective (i.e. not biased) and does not have a personal interest in the outcome and makes findings based on the evidence;
 - providing the applicant with an opportunity to comment in relation to any final report and to make submission in relation to any proposed recommendation. Where the reviewer is the Council a submission may be made by way of a deputation to the Council at a formal meeting if a request for the deputation is approved in accordance with the Local Government (Procedures at Meetings) Regulations 2013. .

6.0 Develop Preliminary Review Findings

Reviewer

- a Clearly record Applicants questions for review and develop preliminary determination to each question.

7.0 Seek Applicant Response to Preliminary Findings

Applicant

- a Seek response from Applicant and request any new or additional information be received before final determination
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8.0 Outcome of Review

Chief Executive Officer, Elected Members, Reviewer

- a Mayor determination

Based on the report of the Reviewer/Investigator, the Council make a determination (by resolution) - providing a range of possible outcomes including:

 - an apology
 - an explanation
 - mediation or other alternative dispute resolution process
 - an admission of fault
 - Council Motion to vary, amend or rescind.
 - a change to policy, procedure or practice
 - a correction of misleading records
 - financial compensation, including a refund of any fees paid by the applicant
 - the waiving of a debt
 - the remission of a penalty
 - disciplinary action against Council employees
 - referral of a matter to an external agency for further investigation

The remedy or response may be one, or a combination of these actions. The chosen remedy will be proportionate and appropriate to the findings of the review and will take into account any remedy sought by the applicant as part of their application for review.
- b CEO determination

Based on the report of the Reviewer/Investigator, the CEO will make a determination – providing reasons for the decision and any proposed remedies, if appropriate
- c Reviewer determination

Based on their investigation the Reviewer will make a determination – providing reasons for the decision and any proposed remedies, if appropriate. This decision should be subject to a review by the Reviewer's manager or another appropriate officer prior to being finalised.
- d In all cases, the IRCO will advise the applicant in writing of the outcome of the review - providing reasons for the decision and any proposed remedies, if appropriate.

9.0 Final Determination of Review

Internal Review Contact Officer (IRCO), Reviewer

- a Form final determination and communicate to applicant including options for appeal to the South Australian Ombudsman

NOTE If the determination is a resolution of Council - communicate resolution to applicant
 - b The IRCO will also report to the Council regarding how the outcomes have been used to improve Council's customer service, policies, procedures and practices. Where practicable and appropriate, learning outcomes will be shared with relevant local government agencies and Networks
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10.0 s270 Annual Reporting

Manager Corporate Affairs

- a An annual report must be presented to Council which must detail:
 - a. the number of Section 270 applications to review a decision
 - b. the kinds of matters to which the application relate; and
 - c. the outcomes of the reviews

- b** This report may also detail improvements made to services, policies, procedures or practices as a result of the review/s.
- c** A similar report must appear in the Annual Report ref: Schedule 4 (1)(i) Generally a summary of the report listed in a above

Owner
Process Expert Kym Elder

Triggers & Inputs

TRIGGERS

Starts	Frequency	Volume
CEO receives application, acknowledges by letter and appoints IRCO	Quarterly	6

INPUTS

Input	From Process	How Used
Application for an internal review of Council decisions	Member of Public lodges application	Request

Outputs & Targets

OUTPUTS

Output	To Process	How Used
acknowledgement letter	CEO receives application, acknowledges by letter and appoints IRCO	Advise applicant of receipt of application
Report to Council to appointe Reviewer	Conduct Investigation	Appoints Reviewer if decision is by CEO or Council

PERFORMANCE TARGETS

None Noted

Process Dependencies

PROCESS LINKS FROM THIS PROCESS

None Noted

PROCESS LINKS TO THIS PROCESS

None Noted

RACI

RESPONSIBLE

Roles that perform process activities

Applicant, Chief Executive Officer, Elected Members, Internal Review Contact Officer (IRCO), Manager Corporate Affairs, Member of the Public, Reviewer

ACCOUNTABLE

For ensuring that process is effective and improving

Process Kym Elder

CONSULTED

Those whose opinions are sought

STAKEHOLDERS

None Noted

STAKEHOLDERS FROM LINKED PROCESSES

None Noted

INFORMED

Those notified of changes

All of the above. These parties are informed via dashboard notifications.

Systems

None Noted