

# Internal Review of Council Decisions Policy

<b>Policy Reference Number</b>	5977911
<b>Responsible Department</b>	Corporate Services
<b>Related Policies</b>	Request for Service and General Complaint Handling
<b>Related Procedures</b>	Nil
<b>Date of Initial Adoption</b>	06 November 2000
<b>Last Reviewed by Council</b>	5 December 2023

## 1. Purpose

This Policy describes the procedure that will be applied by Campbelltown City Council in dealing with applications for a formal review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.

## 2. Power to Make the Policy

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.

Additionally, the option of mediation, conciliation and neutral evaluation as provided for in Section 271 of the Act have been incorporated into this Policy.

## 3. Strategic Plan Link

This Policy has the following link to Council's Strategic Plan 2024:

- Leading our People (Goal 5) –

## 4. Principles

Council is committed to transparent decision making processes and to providing access to a fair and objective procedure for the internal review of its decisions.

Everyone will be treated equally, in accordance with good administrative practice. Council's Policy and Procedures will ensure that:

- Everyone has the opportunity to make an application for review of a decision covered by this Policy
- An unbiased assessment is undertaken
- Decisions are based on sound evidence
- Applicants receive information about the outcome of the review.

General complaints may arise as a result of dissatisfaction with a decision about a policy, procedure, service or fee. All attempts will be made to resolve complaints quickly and efficiently, without the need for formal applications for review to be lodged. Dealing with complaints at the local level is the most effective way of resolving matters quickly however there will be times when a simple resolution of complaints cannot be achieved and a formal process is required.

## **5. Definitions**

Nil

## **6. Policy**

### **6.1 Application of the Internal Review of Council Decisions Policy**

Issues arise about a range of matters during the course of Council's day to day activities. General complaints will be referred (in accordance with Council's Request for Service and General Complaint Handling Policy) to the relevant Council Manager in the first instance as prompt action generally results in the matter being resolved satisfactorily.

The Internal Review of Council Decisions Policy will apply to all formal applications for review of decisions of Council, its employees or other persons acting on behalf of Council except where alternative statutory or other review processes are available to the applicant including, but not limited to:

- Development Act 1993
- Planning, Development and Infrastructure Act 2016
- Dog and Cat Management Act 1995
- Electoral issues under the Electoral Act and under the Local Government (Elections) Act 1999
- Environment Protection Act 1993
- Expiation of Offences Act 1996
- Freedom of Information Act 1991
- Industrial Relations matters
- Local Government Association Mutual Liability Scheme claims
- Council By-Laws and Orders
- Rating and Valuation matters
- Behavioural Standards matters
- Conflict of Interest matters

- Decisions made through delegations under other Acts, such as
  - Food Act 2001
  - South Australian Public Health Act 2011
- Matters relating to Home and Community Care services where specific complaint/review mechanisms have been identified.

## 6.2 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. For example, residents, ratepayers, members of a community group, users of Council's facilities, and visitors to the Council area all have the right to lodge an application for review.

## 6.3 Application process

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.

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 (for example, if additional information has been learnt that may have changed the original decision if it was known).

Supporting documentation must be provided at the time the application is made. Late documentation will only be accepted under exceptional circumstances and will not be accepted once the decision making process has commenced as this may lead to perception or allegations of bias in the decision making process. Assistance will be provided to applicants where necessary to help prepare a written application, including the use of an interpreter, providing assistance for people with a disability, or referring applicants to an advocate. The application should be addressed to:

Chief Executive Officer  
Campbelltown City Council  
PO Box 1  
Campbelltown SA 5074  
mail@campbelltown.sa.gov.au

## **6.4 Review process**

**6.4.1** 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.

**6.4.2** Applicants will be encouraged to participate co-operatively in the review process. However, failure to co-operate will not negate a person's right to seek external review through the State Ombudsman, other legal appeal processes, or the Courts at any time during the internal review process.

**6.4.3** The Chief Executive Officer will advise Elected Members of receipt of a request for internal review, acknowledge the applicant's request and nominate an appropriate Contact Officer who will be responsible for dealing with the application for review (except where, in the opinion of the Chief Executive Officer, 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.

**6.4.4** The role of the Contact Officer is to:

- explain the procedure to the applicant and advise them of alternative courses of action available including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman
- advise the applicant about 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
- report to Council at regular intervals should the review be taking a significant length of time.

**6.4.5** The Contact Officer will assess the application, determine the appropriate action and arrange for an independent review if necessary.

**6.4.6** Some matters will be referred directly to Council for consideration or further consideration. The types of applications that will be referred directly to Council are those regarding:

- Council, Committee or Chief Executive Officer endorsed decisions, objectives and policies
- Budgetary matters, or evaluation of service delivery matters
- Civic and ceremonial matters
- The procedure for Internal Review of Council Decisions, or the process applied
- Issues that are likely to be of interest to the wider community
- Matters which may involve litigation
- Matters where legal procedures have not been followed, for example, relating to leases and licences, and tenders
- Matters which in the opinion of the Chief Executive Officer, may require mediation, conciliation or neutral evaluation
- Any other matters at the discretion of the Contact Officer or Chief Executive Officer.

**6.4.7** 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.

**6.4.8** 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 the best possible decision in the circumstances:

- 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 to the making of the decision and not take into account matters which are not relevant to the decision
- 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, which includes the principles of natural justice
- 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.

In carrying out a review of a decision, the reviewer (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. The reviewer will make the best decision available on the evidence provided.

This means the reviewer will do more than simply consider whether the decision is legally and procedurally correct. The reviewer will also consider whether a different decision would be better, based on the evidence. The process of merits review, as described above, will typically involve a review of the facts that support a decision, including any new evidence that may come to light.

- 6.4.9** Where the Contact Officer's role is only to prepare the matter for Council's review, the Contact Officer must draw their attention to matters referred to in clause 6.4.8 when preparing reports for Council's consideration.
- 6.4.10** Council will be advised in all circumstances in which the Contact Officer or Chief Executive Officer is of the opinion that the decision of Council should be varied.
- 6.4.11** Matters may also be dealt with through independent mediation, conciliation or neutral evaluation, where both parties agree that this course of action is appropriate, and where the associated costs will be shared equally between Council and the applicant. These processes may run concurrently with a review, where appropriate. The Contact Officer will discuss this option with applicants where relevant.
- 6.4.12** 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.

## **6.5 Procedural Fairness**

Council will observe the following principles of procedural fairness (also called 'natural justice') when exercising its statutory powers which could affect the rights and interests of individuals:

- Give an applicant a right to put their case forward. This will generally involve giving an applicant the opportunity to provide all relevant documentary evidence, rather than an oral hearing
- Ensure that the reviewer does not have a personal interest in the outcome (is not biased)
- Act only on proper evidence that is capable of proving the case.

## **6.6 Record keeping**

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.

Whilst not required to by law, Council will endeavour to ensure that the reasons for a reviewer's decision are provided to the applicant. Council will always give reasons to explain the revised decision where:

- A decision is not in accordance with published 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.

Employees will maintain a register of all applications for review received (and their outcomes) during each financial year, and provide a report on use of the Internal Review of Council Decisions process in Council's Annual Report in accordance with Section 270(8) of the Local Government Act 1999.

## **6.7 Review timeframe**

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.

In most cases applications for review will be considered within 21 days, although in some circumstances it may take longer. However, in all cases, 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.

If applications for review are not resolved satisfactorily, applicants will be advised by the Chief Executive Officer (or nominee) of other options for review, such as the State Ombudsman, legal advice, and/or the courts.

## **6.8 Remedies**

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

- returning the situation to its original status (such as not pursuing the construction of something, not implementing the original decision, etc)
- an explanation
- mediation
- an apology or admission of fault



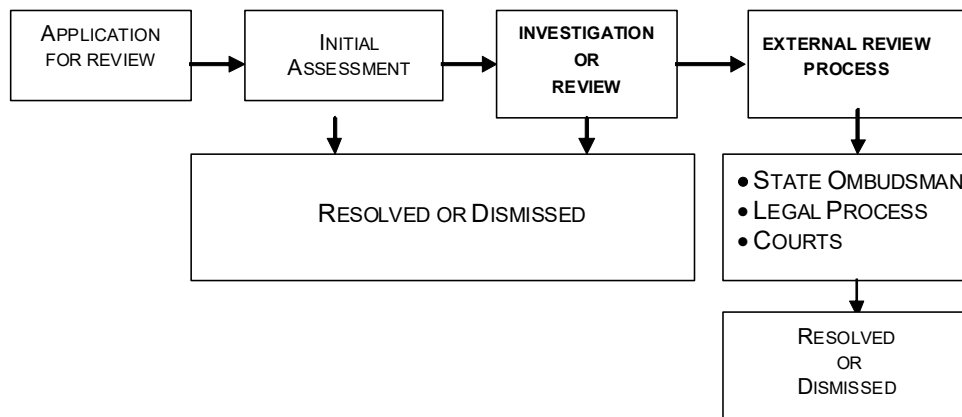
- a change to policy, procedure or practice
- a correction to Council records
- financial compensation, including a partial or full refund of fees
- the waiving of a debt
- the remission of a penalty or remedial action
- disciplinary action
- referral of a matter to an external agency for further investigation or prosecution.

Any action required will be undertaken promptly and consideration given as to whether system or policy changes are required to prevent the situation being repeated.

When advising an applicant of the outcome of a review, information will also be provided about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

## 6.9 Options for Review available to applicants

The following diagram illustrates the review processes available to the applicant.



## 7. Review & Evaluation

Within twelve months of each new Council term, Council will review this policy. Following this initial review, this policy will be reviewed at least biennially by Staff with minor administrative adjustments being approved by the Chief Executive Officer.

## 8. Availability of the Policy

Copies of this Policy will be available at Council's principal office during ordinary business hours and at Council's website [www.campbelltown.sa.gov.au](http://www.campbelltown.sa.gov.au).