



INTERNAL REVIEW OF A COUNCIL DECISION POLICY

<i>Responsible Officer/s</i>	Director Commercial and Community Services Commercial and Community Services
<i>Relevant Legislation / Documents</i>	Local Government Act 1999, s270 Customer Service Policy, Complaints Handling Policy, Fraud & Corruption Policy, Complaints Handling Procedure, Works Request Procedure, Protocol – Ombudsman Enquiry Procedure
<i>Adopted</i>	19 March 2021
<i>Reviewed</i>	
<i>Next Review</i>	March 2023

A. Purpose

This policy addresses the manner in which requests for a review of a previous decision of Council will be dealt with

B. Objective

The District Council of Loxton Waikerie (Council) is committed to transparent decision-making processes and to providing access to a fair and objective procedure for the internal review of Council decisions.

Grievances may arise as a result of dissatisfaction with a Council decision, policy, procedure, service or fee. All attempts will be made by the Council to resolve grievances quickly and efficiently and without the need for formal applications for review to be lodged.

In the event that a resolution cannot be reached, a grievance may be progressed in accordance with this Internal Review of Council Decisions Policy (Policy). The Policy provides guidance to the Council for dealing with an internal review of a Council decision.

Applicants for review of decisions will be encouraged to participate in the review handling process cooperatively. The Policy an opportunity to review the way Council makes decisions and to identify areas for improvement.

The Policy does not negate the rights of a person aggrieved by a Council decision to seek external review through the State Ombudsman, other legal processes, or the Courts at any time.

The scope of this policy excludes issues which would relate to staffing matters covered under individual contracts.

C. Policy

Section 270 of the Act also requires the 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.

1. What is an Internal Review of a Council Decision?

An internal review of a Council decision is undertaken when informal complaint processes (as detailed in the Customer Service Policy) have been exhausted. An internal review evaluates the process undertaken by Council in reaching its decision, particularly as to whether the decision made by the Council was:

- a reasonable decision to make in the circumstances;
- a decision open to be made on the facts before it; and
- a decision made in the public interest.

The review will also establish if the decision-making process was flawed in any manner.

The review could lead to the original decision being affirmed, varied or overturned. Sometimes, the decision is unable to be changed; in this case Council will undertake the internal review to establish any opportunities for business improvement.

There is no cost to the applicant for an internal review.

2. What is a decision of Council?

A decision of Council includes decisions made by:

- Council (that is the elected body);
- employees of Council; and/or
- other persons acting on behalf of Council (such as contractors).

3. What matters are not covered by this policy?

Not all actions are considered decisions; 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.

Matters that have 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, are not considered decisions of Council, and as such are not covered by this Policy, nor would the referral of a matter to Council's insurer the LGAMLS be a decision.

In addition, some decisions made by Council are subject to review or appeal processes set out in other legislation (such as Planning, Development and Infrastructure Act 2016, Dog and Cat Management Act 1995, Freedom of Information Act 1991, Expiation of Offences Act 1996). This

policy and associated procedure cannot replicate, override or operate inconsistently with these statutory processes.

Where legislation provides for the review of, or appeal from, a type of decision (or where legislation specifically excludes a type decision from review either expressly or by necessary implication); a decision of that type will not be reviewed under this procedure.

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 1995 are intended to have operative effect from the time the decision is made and are not capable of being varied or revoked by Council.

Decisions made more than 6 months prior are also not covered by this policy or procedure. Council is aware of its obligations under Section 270 of the Local Government Act 1999 in relation to applications relating to rates and in these instances, Council will consider the provisions available to ratepayers for rate relief or concessions. The process for rate relief or concessions is detailed in the Rate Rebate Policy and Procedure.

The Chief Executive Officer may consider granting an Internal Review on the matters described above, where it is determined that there may be merit in doing so and provided it isn't contrary to other legislative avenues.

4. When will a request for review be refused?

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; or
- 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 be provided to the applicant.

5. What can you expect from Council?

Council will acknowledge receipt of an application for a review within 3 business days. Council will aim to have the investigation completed, and a draft report prepared within a month.

It is recognised that some investigations are more complex and are unable to be completed within these timeframes. In these instances Council will advise the applicant and provide estimated timeframes for the draft report to be completed.

Where a formal Internal Review is granted under this Policy the person conducting the internal review shall be independent from those involved in the initial decision. Applicants will be treated equally, in accordance with good administrative practice and Council's procedures are designed to ensure that:

- every applicant has the opportunity to make an application for review of a decision covered by this procedure;
- an unbiased assessment is undertaken;
- decisions are based on sound evidence;
- applicants receive information about the outcome of the review.

While Council prefers to resolve requests for review directly with its customers, it does not negate citizens' rights to seek an external review of a decision through the State Ombudsman, other legal appeal processes or the Courts at any time during the complaint handling process.

In the case where an application is refused, or a review has been finalised and the applicant is still unhappy with the decision, the Chief Executive Officer may recommend the case go to mediation, conciliation or neutral evaluation. Costs and expenses associated with the appointment and work of a mediator, conciliator or evaluator under this section will be shared equally between the council and the other party.

6. Definitions

Complainant;

A customer who is dissatisfied with the service delivery of the Council or the handling of a Request for information.

Frivolous complaint or Request;

A complaint or request that lacks substance or merit, or is otherwise trivial in nature.

Malicious complaint or request;

A complaint or request that is motivated by improper, vicious, or mischievous purposes.

Unreasonable complainant conduct;

Any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint

Vexatious Complaint;

A complaint or request is a complaint or request that is made to harass, annoy, delay or cause detriment or trouble to the Council or a third party. A complaint may be considered vexatious if:

- it comprises false allegations, and cannot possibly succeed; or
- there is an absence of any reasonable grounds for lodging the complaint; or the complainant does not have sufficient interest in the matters the subject of the complaint

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.lwdc.sa.gov.au or postal copies may be obtained from the Council Office free of charge.

E. Document history and version control

Date	Version	Authorisation	Amendment Details
19/03/2021	1	Council	Previous Policy and Procedure separated to reflect differences in documents.