

Internal Review of a Council Decision Procedure

Strategic Reference	Outcome 5 – Leadership Strategy 3.5 – Council reports openly and transparently on its performance. Strategy 3.8 – Council Members demonstrate ‘good governance’ in their roles. Strategy 3.9 – Council Members actively communicate and consult with the community.
File reference	AR20/9667
Responsibility	Office of Chief Executive Officer
Revision Number	7
Effective date	November 2000
Last revised date	April 2025
Minutes reference	090/25, 127/20, 018/17, 070/15, 168/14, 259/12
Next review date	Every three (3) years, including within six (6) months following Council election.
Applicable Legislation	Local Government Act 1999 State Records Act 1997
Related Policies	Customer Service Charter Complaints and Compliments Policy Requests for Service Policy Public Interest Disclosure Policy and Procedure Fraud, Corruption, Misconduct & Maladministration Policy
Related Documents	Requests for Service Procedure Complaints Handling Procedure Application for Decision Review Protocol – Ombudsman Enquiry Procedure <i>Right of Review: An Audit of Local Government Internal Review of Council Decisions Procedures</i> November 2016, (Ombudsman SA) Internal Review of a Council Decision, Model Procedure June 2017, (LGA)

1. Purpose

- 1.1 Council² recognises the importance of transparency in Council² decision-making and the need to provide a fair, objective, and consistent process for the internal review of Council² decisions.

Footnotes have been deployed throughout the procedure to define the context of ‘council’, those being:

¹Elected Members acting in an official capacity at a Council meeting ²Council as a body corporate

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Internal Review of a Council Decision Procedure

1.2 The Internal Review of a Council Decision Procedure (the Procedure) has been adopted in accordance with Section 270 of the Local Government Act 1999 (the Act). The Procedure is one aspect of Council's² customer focused approach to service delivery. It provides a further opportunity to review the way Council² provides services to the community, and to identify areas for improvement.

1.3 The primary objectives of this Procedure is to:

- Satisfy the mandatory requirements of Section 270(1) of the Act
- Provide a fair, objective, and consistent procedure for the review of decisions of Council¹, its employees, and other persons acting on behalf of Council²
- Where appropriate, use information obtained during the review to improve Council's² decision-making processes and service delivery.

2. Scope

This Procedure is mandatory under Section 270(1) of the Act and applies when reviewing the decisions of:

- Council¹;
- Employees of Council²; and
- Other persons acting on behalf of Council²

Any person with a sufficient interest in a decision may apply for an internal review of a decision of the Council¹, a Council² employee, or other person acting on behalf of Council².

3. Definitions

“Applicant” means the party lodging the request for internal review and must have a sufficient interest in the matter. For example, a resident, ratepayer, members of a community group, users of Council² facilities and visitors to the area.

“Business Day” means a day when the Council² is normally open for business (ie. Monday to Friday, excluding public holidays).

“CEO” means the Chief Executive Officer of the Coorong District Council², or their delegate.

“Council” means the elected body of the Coorong District Council².

“Council Decision” means the original decision, the subject of the request for internal review, and either a:

- Formal decision of the elected body of Council¹ or a Council¹ Section 41 Committee;

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- Decision made under delegation by the Chief Executive Officer;
- Decision made under delegation by an Employee of Council, or
- Decision made by other persons acting on behalf of Council².

“Decision Maker” means the Council¹, Chief Executive Officer, or person delegated, to assess the Internal Review Recommendation made by the Reviewing Officer, and make the Final Decision on the internal review. The Decision Maker should make a new and independent decision that is not bound by the recommendations of the Reviewing Officer and must:

- Affirm the Council² decision;
- Vary the Council² Decision; or
- Make a new decision.

“Employee” means a person employed directly by Council² is a full-time, part time or casual capacity (whether that position is permanent or contractual) and a person providing services to, or on behalf of, the Council² even though they may be employed by another party.

“Final Decision” means the final determination made by the Decision Maker in assessing the Internal Review of Decision.

“Internal Review Recommendation” means the report provided by the Reviewing Officer to the Decision Maker, setting out the scope, evidence considered, and assessment of the internal review request, and a recommendation to the Decision Maker.

“Reasonableness” means the appropriate standard or quality of decision-making that must be brought to bear when making an administrative decision.

“Reviewing Officer” means the Council² officer, external person or sessional panel delegated by the Council¹ or Chief Executive Officer to review the Council^{1 or 2} Decision and make an Internal Review Recommendation to the Decision Maker on the Council^{1 or 2} Decision.

The Reviewing Officer (RO) will:

- Not have been involved with the original decision; and
- Be sufficiently independent of the original decision maker.

“Vexatious Request” means any request:

- From an Applicant who has consistently, over a period, complained about minor or trivial matters;
- That has previously been dealt with, and no new information has been provided by the complainant;

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- Where the applicant, or the person on whose behalf the request was made, does not have a sufficient personal interest in the matter raised in the complaint;
- That has previously been dealt with by an inquiry agency or a public authority and there is no reason to reexamine it or there is other good reason why no action should be taken in respect of it;
- That is trivial, frivolous or not made in good faith;
- Considered by the Chief Executive Officer having regard to all the circumstances of the request, that an investigation or the continuance of the investigation of the matter raised in the request, is unnecessary or unjustifiable.

4. Roles & Responsibilities

- 4.1 Council¹ has nominated the Chief Executive Officer (CEO) as the officer responsible for receiving any Internal Review of Decision Requests, except where the application should be referred to the Mayor (per Clause 6.1 (ii)).
- 4.2 Once in receipt of an Internal Review of Decision Request, the CEO or Mayor may assign a Reviewing Officer to manage the internal review process. The Receiving Officer cannot be the Decision Maker, unless a remedy can be reached without internal review, within their level of delegated authority.
- 4.3 The role of the Reviewing Officer 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 receipt of the application;
 - Ensure that the application is recorded in the corporate record keeping system and captured for reporting purposes;
 - Outline the timeframes involved and the action to be taken in the first instance;
 - Undertake a preliminary review to determine what (if any) actions have already been taken to try to resolve the matter;
 - Keep the applicant informed of progress;
- 4.4 Ensure that adequate records of the review process and findings are produced and maintained.

5. Key Principles

- 5.1 An internal review will examine the administrative process by which the Council^{1 or 2} Decision was made, not the decision itself. The review may or may not result in the disputed decision being reconsidered and overturned.

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- 5.2 The internal review process will afford procedural fairness to ensure that all parties have the opportunity to express their point of view in relation to the decision under review, provide relevant information and respond to issues raised.
- 5.3 All reasonable attempts will be made to review a decision quickly and efficiently.
- 5.4 The lodging of an application will not automatically suspend or put on hold the subject of the review.

6. Procedure

6.1 Internal Review of Decision Requests

A formal application for an internal review of a Council¹ or ² Decision must be made in writing, marked “Internal Review of Decision Request” and addressed to:

- i. **Chief Executive Officer**

If the request is for a review of a decision made by the Council¹ as the elected body, or a decision made by an employee of the Council², or another person acting on behalf of Council², the application should be addressed to the Chief Executive Officer of the Coorong District Council²; or

- ii. **Mayor**

If the request is for a review of a decision made by the Chief Executive Officer, the application should be addressed to the Mayor.

6.2 Relevant Contact Details

The relevant contact details for making an Internal Review of Decision Request are:

Attention: Chief Executive Officer or Mayor
Internal Review of Decision Request
Coorong District Council
PO Box 399
TAILEM BEND SA 5260

council@coorong.sa.gov.au

6.3 An Internal Review of Decision Request:

- i. Should use the attached “Internal Review of Decision Request” form;
- ii. Must provide full details of the Council¹ or ² Decision for which the Applicant is seeking a review; and
- iii. Must be lodged within six (6) months of the Council¹ or ² Decision being made;

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- iv. A longer time limit may apply in particular cases. Acceptance of the request for review in these circumstances is at the discretion of the Chief Executive Officer, and will be assessed on a case-by-case basis.
- 6.4 The process for applying and participating in a review of a Council^{1 or 2} Decision is to be made as accessible as possible, with assistance provided if considered necessary. Assistance may include interpreter and/or translation services, assistance with writing the application, or ensuring ease of physical access to meeting rooms etc. If a person refuses assistance, that does not negate their right to proceed with the application.
- 6.5 The Chief Executive Officer, or Mayor, where appropriate, will assess the application and determine the appropriate action. This may include direct referral of the matter to a Reviewing Officer, or to an external relevant authority such as SA Police, the Environment Protection Authority or SafeWork SA.
- 6.6 Where there is a reasonable suspicion that the complaint involves corruption in public administration, serious or systemic misconduct in public administration, or serious or systemic maladministration, then the matter must be reported to the Office of Public Integrity in accordance with the Independent Commissioner Against Corruption Act 2012.
- 6.7 Pursuant to the Act, an application for review must be accompanied by the prescribed fee.

7. Review Process

- 7.1 The Chief Executive Officer or Mayor will take receipt of an Internal Review of Decision Request and act as the Reviewing Officer, or may assign a Reviewing Officer to manage the internal review process and provide an **Internal Review Recommendation** to the Decision Maker.
- 7.2 Before conducting an internal review of the Council^{1 or 2} decision, the Reviewing Officer will conduct an initial assessment of the application to determine if the matter will be reviewed, or if a remedy can be reached without internal review, within their level of delegated authority.
- 7.3 Following an initial assessment, the Reviewing Officer may refuse to consider an Internal Review of Decision Request in accordance with section 270(4) of the Local Government Act 1999 if:
 - 7.3.1 The application is made by an employee of the Council² and relates to an issue concerning their employment; or
 - 7.3.2 It appears that the application is frivolous or vexatious; or
 - 7.3.3 The Applicant does not have a sufficient interest in the matter.
- 7.4 The **Reviewing Officer** may also refuse to consider an application where:
 - 7.4.1 The matter is currently under consideration by any other authority or agency with statutory appeal powers, or where other review processes are available.

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7.4.2 The application relates to decisions of Council¹ that are set out in Council's² Annual Business Plan & Budget; or

7.4.3 The application relates to decisions of Council² made in accordance with the Planning, Development and Infrastructure Act 2016 or the Planning and Design Code.

7.5 Elected¹ Members

7.5.1 When exercising their statutory duties, Elected¹ Members may not use the grievance process provided under sections 270(1) and 271 of the Local Government Act 1999.

7.5.2 To attempt to do so would be considered a vexatious request, as the Local Government (Procedures at Meetings) Regulations 2013 provide Council¹ Members with the opportunity for a rescission motion to alter a decision of Council¹.

7.6 Internal Review of Decision Requests are to be formally acknowledged within three (3) business days of receipt, including advice to the Applicant about the anticipated review process and timeline.

7.7 In most cases, requests for review will be considered and determined within 28 business days of formal acknowledgement. However, in some circumstances the review process may take longer due to the nature and complexity of the application. The Reviewing Officer will contact the Applicant to advise of the circumstances and revised date for receiving the response.

7.8 The Applicant will be encouraged to participate cooperatively in the review process.

7.9 The Applicant will be kept informed about the progress of the review by their preferred method of contact.

7.10 In undertaking the internal review, the Reviewing Officer will review the Council^{1 or 2} Decision to ensure that the original decision making process had regard to the following:

- i. The original decision maker had the power to make the Council^{1 or 2} Decision;
- ii. All matters relevant to the decision were considered and were not influenced by extraneous factors;
- iii. The process was free from bias;
- iv. The original decision maker did not exercise a discretion or power in bad faith, or for an improper purpose;
- v. The Council^{1 or 2} Decision was made on facts and evidence;
- vi. The Council^{1 or 2} Decision was reasonable;
- vii. Any relevant legislation, policies or procedures were considered; and
- viii. The decision maker did not exercise a discretionary power at the direction of another person.

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7.11 Opportunity to Provide Additional Information

7.11.1 Throughout the review process, the Reviewing Officer may (if deemed appropriate) invite the Applicant to provide further information to assist in understanding the Applicant's concerns, the issue(s) to be investigated and the outcome or remedy sought.

7.11.2 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 to be of a different nature, the Applicant will be advised of the need to submit a separate application for an Internal Review of Decision Request.

7.12 Once the matter has been reviewed by the Reviewing officer, an **Internal Review Recommendation** will be provided to the Decision Maker. The Decision Maker will assess the recommendation and make a determination to:

- i. Affirm the Council^{1 or 2} Decision;
- ii. Vary the Council^{1 or 2} Decision; or
- iii. Made a new decision.

7.13 Council¹ as the Decision Maker

7.13.1 Where Council¹ is the Decision Maker, the Chief Executive Officer, or Mayor in consultation with the Chief Executive Officer, will appoint an external Reviewing Officer to undertake the internal review and provide the Internal Review Recommendation.

7.13.2 The Chief Executive Officer, or Mayor, will prepare a report to Council¹ attaching the Internal Review Recommendation and all relevant information about the original decision being reviewed.

7.13.3 Matters to be referred to Council¹ as the Decision Maker include:

- i. A decision made by formal resolution of Council¹;
- ii. A decision or recommendation made by a Section 41 Committee;
- iii. A decision made by the Chief Executive Officer;
- iv. Civic and ceremonial matters; and
- v. Any other matters at the discretion of the Chief Executive Officer.

7.13.4 Once the meeting of Council¹ to determine the matter has been scheduled, the Applicant will be advised of the date that the report will be presented.

7.14 The Applicant will be informed in writing of the outcome of the review within five (5) business days of the final decision being made.

7.15 While there is no statutory requirement to give reasons for a decision, Council² may provide reasons for the decision of the Decision Maker where practicable. Council² will aim to give reasons to explain the outcome where:

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- i. A decision is not in accordance with the adopted policy;
- ii. A decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way;
- iii. Conditions are attached to any approval, consent, permit, licence or other authorisation.

8. Rates & Services Charges

8.1 Pursuant to Section 270(2)(ca) of the Act, where the application for review relates to the impact that any declaration of rates or service charges may have had on ratepayers, Council² will ensure the application for internal review is dealt with promptly, and, if appropriate, addressed through the provision of relief or concessions under that Act.

8.2 It is important to note that Section 270(9) of the Act provides as follows:

- The right of a Council² to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a Council² may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid).

9. 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:

- Applicants will be given 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;
- An applicant is entitled to be informed of the proposed outcome of the review and 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;
- Ensure that the reviewer does not have a personal interest in the outcome.

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10. Decisions Subject to Review

- 10.1 Decisions of the Council¹, employees of the Council, and other persons acting on behalf of the Council², 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.
- 10.2 Not all actions by the Council¹, employees of Council or other person acting on behalf of Council² 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.
- 10.3 Some decisions made by the Council¹, a Council employee or on behalf of the Council² 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:
- i. objections to valuations made by the Council²;
 - ii. appeals against orders made pursuant to section 254 of the Local Government Act 1999;
 - iii. appeals against the issuing of litter abatement notices under the Local Nuisance and Litter Control Act 2016;
 - iv. appeals against destruction and control orders issued under the Dog and Cat Management Act 1995;
 - v. review of an expiation notice under the Expiation of Offences Act 1996; and
 - vi. external review processes under the Planning Development and Infrastructure Act 2016 and the Freedom of Information Act 1991.
- 10.4 Where legislation specifically excludes a type of 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 Planning Development and Infrastructure Act are intended to have operative effect from the time the decision is made and are not capable of being varied or revoked by Council¹.
- 10.5 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 Council² under section 16 of the Expiation of Offences Act.

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11. Remedies

11.1 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 Council² and applicant. The remedy chosen will be proportionate and appropriate to the failure identified and may include (but not limited to) such things as;

The range of other possible outcomes includes:

- An explanation
- Mediation
- An admission of fault
- A change to policy, procedure, or practice
- A correction of misleading records
- Financial compensation, including a refund of any fees
- The waiving of a debt
- The remission of a penalty
- Disciplinary action
- Referral of a matter to an external agency for further investigation or prosecution.
- Returning the situation to its original status (such as not pursuing the construction of something, not implementing the original decision etc)

11.2 The remedy or response may be one, or a combination of these actions. The chosen remedy will be proportionate and appropriate to the failure in service and take account of what the applicant is seeking as an outcome of the review.

11.3 If an apology is required it will be done promptly and the applicant advised that appropriate action will be taken to ensure the problem is not repeated.

11.4 Compensation will only be offered in cases where the loss or suffering is considered substantial. The Council² itself and the Chief Executive Officer are the only people authorised to offer financial compensation and this will only occur after consultation with the Local Government Association Mutual Liability Scheme.

11.5 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.

12. Refusing an Application for Review

Council², 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 Council² and relates to an issue concerning his or her employment;

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- 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. Refused applications will be recorded into Council's² electronic records management system.

13. Confidentiality

- 13.1 The details of any request for internal review will be kept confidential as far as practicable. When no longer practicable, the applicant will be advised.
- 13.2 The applicant will be encouraged to observe confidentiality as this is likely to achieve the fairest result for all concerned.
- 13.3 The applicant's personal information will be used by the IRCO in relation to investigating and reviewing the application.
- 13.4 Only relevant parties will be involved in the internal review process.
- 13.5 Where a request for review is referred to the elected Council¹ for determination, the Council¹ may consider the matter in confidence where it is lawful and appropriate to do so, subject to there being relevant grounds under Section 90(3) of the Act.
- 13.6 If the application is referred to the Ombudsman, the Council² will share any relevant information relating to the application with the Ombudsman's office in accordance with the Ombudsman Act 1972.
- 13.7 Information contained within the application may be accessible under the Freedom of Information Act 1991.

14. Records Management

Employees will keep clear and accurate records of all documents, notes, photographs, interviews, and correspondence. All documentation must be retained and stored in accordance with Council's² Records Management protocols as required by section 125 of the Local Government Act. All applications must be recorded in Council's² records management system in such a way that the information can also be analysed for service improvement opportunities.

The Reviewing Officer will submit a report to Council¹ 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;

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- The outcomes of applications under this procedure; and
- Any other matters as may be prescribed by the regulations.

The Reviewing Officer 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's² Annual Report in accordance with Section 270(8) of the Local Government Act 1999 along with information on any changes/improvements to Council² processes.

15. Availability/Accessibility

This Policy is available for inspection at Council's² offices during normal business hours and Council's website, and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au)

16. Document History

This Policy will be reviewed at least every three (3) years (including within six [6] months following a Council¹ election) or more frequently if legislation or Council² requires.

Version	Adopted	Minute No	Description of change(s)
1	November 2000	Unknown	New policy
2	17 July 2012	259/12	Cyclical review
3	15 July 2014	168/14	Cyclical review
4	21 April 2015	070/15	Cyclical review
5	21 February 2017	018/17	Cyclical review
6	23 June 2020	127/20	Cyclical review
7	15 April 2025	090/25	Significant changes proposed to procedure (track-changed version appended to 15 April 2025 Council agenda); with changes proposed to: - streamline the review process - enhance transparency and accountability as part of the review process - clearly define roles and segregation of duties between the applicant,

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			decision maker and reviewing officer - clearly categorise the decisions which can/may be subject to review
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APPLICATION FOR DECISION REVIEW

In accordance with Section 270 of the *Local Government Act 1999*

Date of application:

Applicant's Name:

Applicant's Address:

Postal Address (if different):

Telephone: (home).....(mobile).....

Email Address:

I request the following decision(s) to be considered for review:

Date of decision

Council¹ minute number

Description of decision:

.....
.....
.....

Previous contact person in this matter:

Details of prior actions taken to resolve this matter:

.....
.....
.....
.....

Reasons for requesting decision review:

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.....
.....

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What resolution are you seeking:

.....
.....
.....

Additional/Supporting documents attached? Yes / No (if yes, please itemise):

.....
.....
.....

Applicant's Signature: Date:

Office Use Only

Received by..... Date:

Referred to:

Applicant Acknowledged and given copy of Procedure? Yes / No Date: