

 <p style="text-align: center;">Internal Review of Council Decisions Policy</p>	
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Policies Related	Request for Service & General Complaint Handling Policy
Applicable Legislation	<i>Local Government Act 1999</i> <i>Government Business Enterprise (Competition) Act 1996</i>
Policy	Statutory

1. Introduction

- 1.1 Council is committed to open and transparent decision making processes and to providing access to a fair and objective procedure for the internal review of its decisions, the decisions of its officers or people acting on behalf of Council.
- 1.2 An internal review of a Council decision is undertaken when informal complaint processes (as detailed in the Request for Service and General Complaint Handling Policy) have been exhausted.
- 1.3 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.

2. Purpose

The purpose of this policy is to provide guidelines for how Council will deal with formal requests for internal reviews of Council decisions.

3. Legislative framework and other references

- 3.1 Section 270(1) of the *Local Government Act 1999* (Act) states that a Council must establish procedures for the review of decisions of:

- The Council
- Employees of the Council
- Other persons acting on behalf of the Council, which have resulted in, or will result in, an administrative act of the Council.

3.2 Section 270(2) of the Act states that the procedure must address at least the following matters:

- Manner in which an application for a review may be made
- Assignment of a suitable person to reconsider a decision under a review
- Matters that must be referred to the Council itself for consideration or further consideration
- Notification of the progress and outcome of an application for a review
- Timeframes within which notifications will be made and procedures on a review will be completed
- In the case of applications relating to the impact that any declaration of rates or service charges may have had on ratepayers, to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provisions of relieve or concessions under the Act.

3.3 Pursuant to section 270(7) of the Act, a formal request for review does not prevent a complaint being made to the Ombudsman at any time.

3.4 This policy does not and is not intended to exclude other rights and remedies available at law.

4. Definitions

4.1 **Act** means the *Local Government Act 1999*.

4.2 **Applicant** means any person who lodges an application for the internal review of a Council decision

4.3 **CEO** refers to the Chief Executive Officer of the Town of Walkerville

4.4 **Council** is a comprehensive term and is to be read as necessary, as encompassing officers, employees, contractors and Elected Members of the Corporation of the Town of Walkerville.

4.5 **Council Decision** means a formal decision of Council or Committee, a decision of an employee of Council or decisions of other people acting on behalf of Council.

4.6 **Employee** means any individual who is employed by the Town of Walkerville and includes agency staff and contractors.

4.7 **Frivolous or Vexatious Complaints** are complaints that are considered trivial or senseless. Frivolous complaints are usually made with the intention of causing a nuisance whilst vexatious complaints are complaints that are made without sufficient grounds only to cause annoyance or harm to the subject of the complaint.

4.8 **Reviewing Officer** means the employee assigned by the CEO to undertake an internal review of a Council decision.

5. Policy

5.1 Commitment

5.1.1 Council, makes decisions every day, which impact on members of the community. It is imperative that these decisions are fair, objective and subject to review.

5.1.2 Council commits to:

- treating all applicants with respect and courtesy.
- responding to applicant requests and enquiries promptly and efficiently.
- acting with integrity and honesty when dealing with applicants.
- providing relevant and timely feedback to the applicant.

5.2 Privacy and Confidentiality

5.2.1 When a request for review is referred to the Elected Council for determination, the Council may consider the matter in confidence when it is lawful and appropriate to do so, subject to one of the clauses under section 90(3) of the [Act](#) being satisfied.

5.2.2 Pursuant to section 270(7) of the Act, a formal request for review does not prevent a complaint being made to the Ombudsman at any time. However, as a general rule, the Ombudsman prefers that matters be addressed by Council in the first instance.

If the application is referred to the Ombudsman, the Town of Walkerville will share any relevant information relating to the application with the Ombudsman in accordance with the [Ombudsman Act 1972](#).

5.2.3 Information contained within the application may be accessible under the [Freedom of Information Act 1991](#).

5.3 Type of Applications which will be not be Considered

5.3.1 Some Council decisions fall outside the scope of this policy as alternative statutory process for a review or appeal exist in other legislation. Examples of other legislation containing unique a statutory process include:

- *Development Act 1993*
- *Planning, Development and Infrastructure Act 2016*
- *Dog and Cat Management Act 1995*
- *Freedom of Information Act 1991*
- *Ombudsman Act 1972*
- *Expiation of Offences Act 1996*
- *South Australian Public Health Act 2011*.

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

5.3.2 Matters that fall outside the statutory appeals procedures will be considered for the conduct of an internal review on a case-by-case basis on the merits of the individual application. The purpose of this is to fill the gaps in the law where a complainant has no right of review.

5.3.3 The CEO may refuse to consider an application if:

- s/ he considers the matter to be trivial, frivolous or vexatious, lacks substance or credibility and therefore investigating the application as deemed unnecessary, unjustifiable or an inappropriate use of resources.
- the applicant is deemed not to have sufficient interest in a matter.

In these instance the CEO will advise the applicant accordingly.

5.4 Reporting

5.4.1 A register will be maintained of all requests for internal reviews received and the outcome of the applications.

5.4.2 In accordance with section 270(8) of the Act, Council will also provide a report in each annual report on:

- The number of applications for review made under this section
- The kinds of matters to which the applications relate
- The outcome of applications under this section
- Such other matters as may be prescribed by regulations.

5.5 Data Collection

Statistical information may be used to identify areas/ services/ procedures that require review or that may need additional resources to provide the required level of service for customers.

6. Procedure

6.1 Making an Application for an Internal Review of a Council Decision

6.1.1 Applications may be lodged by any person with sufficient interest in a decision of Council within six (6) months of the original decision.

6.1.2 Applications for review received after six (6) months from the original decision will not be considered.

6.1.3 Requests must be made in writing, preferably using the Internal Review of a Council Decision Application form and provide full details of the decision for which the applicant is seeking a review(including how the decision impacts on their rights and/or interests) and set out the reasons for applying for the review.

6.1.4 Applications should be addressed as follows:

If posted, to:

The Chief Executive Officer
Town of Walkerville
66 Walkerville Terrace
GILBERTON SA 5081

If emailed, to:

The Chief Executive Officer
Town of Walkerville
walkerville@walkerville.sa.gov.au

6.1.5 If the application relates to a decision made by the Chief Executive Officer the application form should be forwarded to:

The Mayor
Town of Walkerville
66 Walkerville Terrace
GILBERTON SA 5081

Or by email to

The Mayor
Town of Walkerville
walkerville@walkerville.sa.gov.au

6.1.6 If required, assistance will be provided to applicants to lodge a formal request for an Internal Review of a Council Decision form, available from Council's website and in hard copy from the Civic and Community Centre.

The Administration may amend the form for time to time according to operational needs.

6.1.7 No fee is payable for an application for an internal review of a Council decision

6.2 Acknowledging an Application:

The CEO will formally acknowledge, in writing, all requests for an application for the internal review of a Council decision within 5 (five) working days of receiving the request and advise the applicant of the expected timeframe within which a determination will be made in respect of their request or review.

6.3 Undertaking the Review

6.3.1 Applicants will be treated equally, in accordance with good administrative practice. 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.

6.3.2 The CEO will assess all applicable requests for an internal review of a Council decision (except those which will be referred directly to the Council) and determine what action, if any, should be taken including electing to appoint another officer independent of the original decision to review the application e.g.

- a member of the Management Team
- a senior officer
- an independent review panel.
- an external advisor may be recommended where the decision under review is complex and raises legal questions.

6.3.3 The CEO may decide to refer a review of a Council decision directly to Council where:

- The decision being reviewed relates to civic or ceremonial matters:
- The decision being reviewed is in the opinion of the CEO likely to be of interest to the wider community:
- Any other matters at the discretion of the CEO.

6.3.4 The CEO will refer a review of a Council decision directly to Council where the decision being reviewed was made by the Council or a Council Committee. A review of decisions made by the CEO will be referred to an external advisor.

6.3.5 Where a request for a review has been referred to Council the applicant will be advised of the date that the report will be presented to Council and will be given the opportunity to provide a written or verbal submission in relation to the report for Council's consideration.

6.4. Progress of Applications

6.4.1 In most cases, the CEO will use their best endeavours to ensure that requests for an internal review will be considered and determined within 20 business days. However, in more complex cases, or if the decision is to be reviewed by Council or an external provider a review may take longer.

6.4.2 In the event that a review exceeds 20 days, the applicant will be provided with periodic updates on the progress of the review until the review is finalised.

6.5 Opportunity to Provide Additional Information

- 6.5.1 After initially assessing an application for an internal review of a Council decision the reviewing officer may (if deemed appropriate) invite the applicant to provide further information to assist in understanding the applicant's concerns, issues to be investigated and the outcome or remedy sought.
- 6.5.2 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 by the reviewing officer to be of a different nature the applicant will be advised of the need to submit a separate application for an internal review of a Council decision.
- 6.5.3 Those that may be affected by a decision will be treated with procedural fairness, which includes the principles of natural justice. As part of the review process all parties with an interest in a matter will have opportunity to make a written submission expressing their point of view and responding to issues raised, including the provision of any relevant information.

6.6 Undertaking the Internal Review

- 6.6.1 In undertaking a review the CEO or Council will review the decision in question to ensure that the original decision maker complied with the following procedural requirements and made the best possible decisions in the circumstances having regard to the following:
- The decision maker had the power to make the decision
 - The decision maker considered all matters which were relevant to the making of the decision and did not take into account matters which were not relevant, as well as any additional relevant information or material provided by the applicant
 - The decision maker did not exercise a discretion or power in bad faith or for an improper purpose
 - The decision maker ensured that findings of fact were based on evidence
 - The decision was reasonable
 - The decision maker considered any relevant legislation, policies or procedures
 - The decision maker did not exercise a discretionary power at the discretion of another person
- 6.6.2 The applicant will be informed in writing of the outcome of the review (even where a determination is made that the original decision under review is upheld).
- 6.6.3 Where appropriate, the findings of the internal review will be considered with regard to how Council's existing practices can be improved.

6.6.4 A complaint may be lodged with the Ombudsman at any time including if the applicant is still dissatisfied with the outcome of an internal review.

6.7 Alternative Options

6.7.1 Where all options for investigating a complaint have been followed and the complainant is still dissatisfied, they may choose to refer the matter to the Ombudsman.

6.7.2 Matters regarding Competitive Neutrality Pricing should be referred to the Australian Competition and Consumer Commission (ACCC). The ACCC is an independent Statutory Authority appointed under the *Government Business Enterprise (Competition) Act 1996*.

7. Availability of Policy

This policy will be available for inspection at the Council Civic & Community Centre, 66 Walkerville Terrace Gilberton, during ordinary business hours and on Council's website www.walkerville.sa.gov.au. Copies will be provided to interested parties upon request for the payment as per Council's Fee's & Charges listing

8. Review

The Council will review this policy within 12 months of the next Local Government Election. However, Council has the ability to review and amend this policy at any time.



Application for internal review of Council Decisions

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

To comply with Council Policy Internal Review of Council Decisions, all formal applications for an Internal Review of a Council decision must be in writing and addressed to the:

*Chief Executive Officer
 Town of Walkerville
 PO Box 66
 Walkerville SA 5081*

email: walkerville@walkerville.sa.gov.au

Applicant Details

Title Mr / Mrs / Miss / Other			
First Name	Surname		
Company name (if applicable)			
Postal Address	Post Code		
Daytime phone number	Mobile number		
Email:			
Please circle preferred means of contact Daytime phone / mobile / email			

Details of the decision you are requesting be reviewed

Please provide all relevant details, such as the date of the decision, the name of the staff member or department, and any previous contact with us about the subject matter. Please attach copies of any relevant documentation.

Please list your reasons for requesting the review.

Please list what recourse you seek

Office Use Only

Date Received _____ Record Number _____