



INTERNAL REVIEW OF COUNCIL DECISIONS POLICY & PROCEDURE

Version No:	2.0
Issued:	January 2017
Next Review:	January 2019

PURPOSE

The purpose of this policy and procedure is to provide guidelines for how Council will deal with formal requests for review of Council decisions (including decisions by its employees and other people acting on behalf of Council).

The District Council of Franklin Harbour recognises the importance of transparency in Council decision-making and the need to provide a fair, objective and consistent process for the review of Council decisions.

LEGISLATIVE FRAMEWORK AND OTHER REFERENCES

There is a legal requirement for Council to develop and maintain policies, practices and procedures for the review of Council decisions and requests for services.

The following legislation applies to this policy:

Local Government Act 1999

Section 270(a1) states Council must develop and maintain policies, practices and procedures for dealing with:

- Any reasonable request for the provision of a service by the council or for the improvement of a service provided by the council; and
- Complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council.

Section 270(1) states that a council must establish procedures for the review of decisions of:

- The council;
- Employees of the council; and
- Other persons acting on behalf of the Council.

Section 270(2) provides 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



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- Time frames 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 relief or concessions under the Act.

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.

Other References

Council's Customer Complaints Policy

Council's Fees and Charges Register

DEFINITIONS

For the purposes of this policy the following definitions apply:

Act – Local Government Act 1999

CEO – refers to the Chief Executive Officer (including their delegate) of the District Council of Franklin Harbour, or an Acting Chief Executive Officer of the District Council of Franklin Harbour (including their delegate).

Decision of Council – a formal decision of Council, a decision of an employee of Council made under delegation or decisions of other people acting on behalf of Council.

The applicant – A person who lodges a request for the review of a decision.

POLICY

Council has processes in place for managing customer complaints, which includes immediate informal resolution as well as established processes for formal reviews.

Reasonable requests for the provision of a service by the Council or for the improvement of a service provided by the council; or complaints about the actions of the council, employees of the council, or other persons acting on behalf of the Council will attempt to be resolved via our Customer Complaints Policy without the need for a formal request for a review of a Council Decision.

This policy will apply where:

- A complaint can no longer be dealt with under Councils Customer Complaints Policy.

The aim of this policy and procedure is to ensure a fair, consistent and structured process for any party dissatisfied with a Council decision. This policy does not and is not intended to exclude other rights and remedies available at law.



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MATTERS OUTSIDE THE SCOPE OF THE POLICY & PROCEDURE

Other legislation that has its own prescribed appeal procedures, including:

- Development Act 1993
- Freedom of Information Act 1991
- Ombudsman Act 1972
- Courts in respect to a section 255 Order to the Environment, Resources and Development Court
- Public and Environmental Council under the Public and Environmental Health Act 1987
- Expiation of Offences Act 1996. Although there is no external procedure, a review of a decision relating to the issue of an expiation notice must be undertaken in accordance with this Act by a properly delegated officer.

Matters that fall outside statutory appeals procedures will be considered for the conduct of a section 270 review on the merits of the individual application.

PROCEDURE

The following process will apply to any request for a review of a decision of Council:

- A formal request for a review of a decision must:
 - Be in writing
 - Be addressed to the CEO
 - Provide full details of the decision of Council, for which the applicant is seeking a review (including how the decision impacts on their rights and/or interests).
- The CEO or the person assigned to consider a formal request for a review, pursuant to Section 270(4) of the Act, may refuse to consider such an application if:
 - The request is made by an employee of the Council and relates to an issue concerning the employee's employment
 - It appears that the request is frivolous or vexatious
 - The applicant does not have a sufficient interest in the matter
 - The decision was made more than 6 months ago



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- The CEO will assess and determine all requests for the review of a decision of Council (except those grievances which will be referred directly to the Council) and decide what action, if any, should be taken (including whether an independent investigation is necessary).
- There is no fee payable for the review of a decision of Council
- Where necessary, assistance will be provided to applicants to lodge a formal request for review.
- Principles of natural justice will be observed in dealing with formal requests for the review of a decision of Council.
- The CEO will formally acknowledge in writing all requests for a review of a decision of Council within 5 working days.
- The CEO will advise the applicant of the expected timeframe within which a determination will be made in respect of their request for review. In most cases requests for review will be considered and determined within 20 business days. However, in some circumstances the review process may take longer and in this instance, the applicant will be advised.
- The CEO shall be responsible for coordinating any requests for review of a decision of Council.
- The CEO will be responsible for determining whether a request for review of a decision is frivolous or vexatious and/or whether the applicant does not have sufficient interest in the matter. In these situations, the applicant will be advised of this and the reasons the CEO holds this view.
- Council will keep confidential the details of any request for review in so far as it is practicable. When no longer practicable, the applicant will be advised. Where a request for review is referred to the Council for determination, the Council may consider the matter in confidence where it is lawful and appropriate to do so, subject to one of the grounds under section 90(3) of the Act being satisfied.
- All parties with an interest in the matter will have the opportunity of making written submissions expressing their point of view and responding to issues raised, including the provision of any relevant information.
- The Council itself will deal with some requests for review. Those referred to the Council by the CEO for consideration or reconsideration, are those regarding:
 - Decisions made by the Council or Council Committee by formal resolutions
 - Civic and ceremonial matters
 - Issues that in the opinion of the CEO are likely to be of interest to the wider community



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- A recommendation by the CEO that the Council should not consider a request for review which falls within any of the above grounds because the application is frivolous or vexatious, or that the applicant does not have a sufficient interest in the matter
- Any other matters at the discretion of the CEO.
- Where a request for review has been referred to Council the applicant will be given the opportunity to provide a written or verbal submission in relation to the report for Council's consideration.
- 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).
- Adequate reasons need to be recorded for all internal review determinations.

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

The Internal Review of Council Decisions Procedure will be adopted and update on a regular basis, by appropriate staff.

APPLICATIONS UNDER THIS POLICY RELATING TO RATES

In responding to any request relating to the impact that any declaration of rates or service charges may have had on ratepayers, Council is aware of its obligations under Section 270(2)(ca) of the Act. Accordingly, as part of the internal review process in these instances, Council or the CEO (as part of the review process) will consider the provisions available to ratepayers for rate relief or concessions as set out in the Act. Council can also offer alternate payment arrangements in its endeavours to assist ratepayers to meet their rate debt.

Council is not in a position to review its decision relating to the declaration of rates.

ALTERNATIVE OPTIONS

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

REPORTING ON REVIEWS

In accordance with Section 270(8) of the Act, Council will provide a report in each annual report on the Requests for Review under this Policy which is to include:

- The number of requests for review received in the relevant financial year
- The kinds of matters to which the applications relate
- The outcome of the requests for review
- Any other matter prescribed by Regulations.



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REVIEW OF THE POLICY

This Internal Review of Council Decisions Policy and Procedure will be reviewed by the District Council of Franklin Harbour within 12 months after each general election of Council. To ensure that the principles of open Government are being applied in the proper manner, it is anticipated that a review will be conducted every two years. However, Council has the right to review this policy at any time, if considered desirable.

Adopted by Council	14 September 2011
Reviewed and updated	14 October 2015
Reviewed and updated	11 January 2017