

PART 10 INTERNAL REVIEWS

Refer: *Ombudsman Act 1972* (Ombudsman Act)
Local Government Act 1999 (Local Government Act)
Freedom of Information Act 1991 (FOI Act)

1. WHEN CAN A COMPLAINANT REQUEST AN INTERNAL REVIEW?

- A complainant may request a review if he or she believes that the outcome of an investigation under the Ombudsman Act or the Local Government Act is flawed.
- A person who is aggrieved by the outcome of a determination made on an external review by the Ombudsman under the FOI Act cannot request an internal review by Ombudsman SA, but may appeal against the determination to the South Australian Civil and Administrative Tribunal.
- As complainants are given the opportunity to respond to the Ombudsman during the process of an investigation, internal reviews will only be undertaken in exceptional circumstances.

2. WHAT IS AN INTERNAL REVIEW?

- The review is not a re-investigation of the original complaint. The purpose of the review is to consider whether the original investigation was fair and reasonable.
- The review will consider the handling of the original matter and the basis for the conclusion reached, including whether:
 - the process adopted by the officer reasonably addressed the original complaint
 - the officer gathered sufficient facts
 - the officer correctly identified the issues and the administrative acts
 - sufficient analysis of the facts was undertaken
 - the principles of procedural fairness were followed
 - the officer's conclusions were reasonable
 - the officer took into account relevant facts, laws and policies
 - conclusions were properly explained to the complainant.
- A complainant may not fully understand the conclusion reached or the reasons originally given, but a request by a complainant for further reasons or explanations in relation to a decision is not a request for an internal review.

3. HOW SHOULD A COMPLAINANT REQUEST AN INTERNAL REVIEW?

- Where possible, a request for review must be made in writing.
- Complainants must clearly specify which aspects of the investigation process and conclusions they disagree with and the reasons why.

4. PROCEDURE WHEN A COMPLAINANT REQUESTS AN INTERNAL REVIEW

- The request should be acknowledged in writing within seven working days of its receipt by Ombudsman SA.

This policy is a guide only. Staff must always refer to relevant legislation.

- The request should be dealt with:
 - quickly
 - fairly
 - impartially.
- A written request for an internal review will be referred to the Deputy Ombudsman or the Ombudsman.
- The review will be undertaken by the Deputy Ombudsman or the Ombudsman, or it may be delegated to an officer who has not previously dealt with the matter.
- The review officer may find it necessary to seek additional information during the review process. If necessary, the agency will be notified of the internal review.
- Any new information is to be considered as a part of the review process.
- The initial investigating officer is to be given the opportunity to comment on the preliminary findings of the review, and to have their comments taken into account if the outcome is changed as a result of the review, prior to any communication of the findings to the complainant.
- If a complainant continues to contact Ombudsman SA regarding matters that have been reviewed, he or she should be informed that no further action will be taken in relation to the matter unless significant new information comes to light.

5. RESULT OF AN INTERNAL REVIEW

- The result of the review may be:
 - the original conclusion is affirmed and the complaint does not require any further attention
 - the complaint should be re-investigated
 - the original conclusion was incorrect and a new conclusion should be substituted without further investigation.
- Once the internal review is completed, the complainant should be informed in writing of the conclusion reached. The agency should also be informed in writing if it is affected by the conclusion reached.