

Classification:	General
Last Reviewed:	October 2026 (Res. 123/2027)
Next Review Date:	October 2030
Approved By:	Council Resolution
Responsible Officer:	Director Infrastructure & Operations
Applicable Legislation:	Expiation of Offences Act 1996 Planning, Development and Infrastructure Act 2016 Dog and Cat Management Act 1995 Environment Protection Act 1993 Fire and Emergency Services Act 2005 South Australian Public Health Act 2011 Food Act 2001 Local Government Act 1999 Supported Residential Facilities Act 1992 Road Traffic Act 1961 Private Parking Areas Act 1986 Road Traffic (Miscellaneous) Regulations 2014 Local Nuisance and Litter Control Act 2016 Australian Road Rules
Relevant Policies, Procedures and Standards:	Enforcement Policy Internal Review of Council Decisions Policy By-Law 1 – Permits and Penalties By-Law 2 – Local Government Land By-Law 3 – Roads By-Law 4 – Moveable Signs By-Law 5 – Dogs By-Law 6 – Cats

1. PREAMBLE

This policy establishes Council's process for reviewing decisions to issue expiation notices. It supports the requirements of section 270 of the *Local Government Act 1999* and the review provisions of the *Expiation of Offences Act 1996*.

The policy recognises the right of a person issued with a Council expiation notice to request that Council review the decision. Review requests will be dealt with consistently, equitably, fairly and impartially, with due regard to procedural fairness and the principles of natural justice.

This policy operates alongside Council's Enforcement Policy. The Enforcement Policy guides the assessment of non-compliance and the selection of an enforcement response.

The Expiation Notice Decision Review Policy applies only to the internal review of Council-issued expiation notices. It does not apply to the review of development assessment decisions, development authorisations or other development decisions, which are dealt with under the *Planning, Development and Infrastructure Act 2016* and associated legislation.

It also does not replace any statutory appeal, review or other rights that may apply to directions, orders or other enforcement action.

This policy outlines the matters to be considered and the process to be followed when a person seeks a review of a decision to issue an expiation notice. The Chief Executive Officer (CEO), or an appropriately authorised delegate, is responsible for managing review applications in accordance with this policy.

The review mechanism provides a cost-effective, just and flexible opportunity for a matter to be considered before it progresses to the next stage of enforcement.

2. DEFINITIONS

- **Authorised Officer** means employees and contractors of Council who are authorised to take enforcement actions under one or more Acts administered by Council under Chapter 12 Part 3 of the Local Government Act 1999.
- **CEO** means the Chief Executive Officer of Council or an appropriately authorised delegate.
- **Expiation Notice** refers to a notice issued for an alleged offence against one of the Acts listed above. An expiation notice provides the alleged offender with the opportunity to deal with an alleged offence by payment of a fee set by legislation to Council, without summoned to Court, where they risk a fine and conviction. An expiation notice alleging non-compliance with an Act may only be issued by an Authorised Officer who has been provided the relevant authority to do so under either the Expiation of Offences Act 1996 or the relevant Act.
- **Trifling:** An offence will be regarded as trifling for the purposes of an expiation notice issued under the Expiation of Offences Act 1996 if, and only if, the circumstances surrounding the commission of an offence were such that the alleged offender ought to be excused from being given an expiation notice on the ground that:
 - There were compelling humanitarian or safety reasons for the conduct that allegedly constituted the offence; or
 - The alleged offender could not, in all the circumstances, reasonably have averted committing the offence; or
 - The conduct allegedly constituting the offence was merely a technical, trivial or petty instance of a breach of the relevant enactment.

3. POLICY STATEMENT

4.1 Responsibilities and Authority

- 4.1.1** In the interests of transparency and accountability, Council Members and independent members of a section 41 committee will not be involved in the consideration of a review of an expiation notice, or hear deputations concerning an expiation notice.
- 4.1.2** An application for review will be managed by the CEO or an appropriately authorised delegate. Wherever practicable, the person undertaking the review will not be the officer who issued the expiation notice.
- 4.1.3** Following a review, an expiation notice may only be withdrawn by an Authorised Officer acting under the relevant legislative authority and Council delegation.
- 4.1.4** Unless the CEO directs otherwise, the CEO is responsible for reviewing and responding to expiation complaints and requests from Members of Parliament.
- 4.1.5** The CEO may refuse to consider an application that is frivolous or vexatious, or where the applicant does not have a sufficient interest in the matter.
- 4.1.6** A person undertaking a review must disclose any actual, potential or perceived conflict of interest in relation to the matter. Where a conflict exists, the review will be allocated to another appropriately authorised

officer wherever practicable, and the conflict and management action will be recorded.

4.1.7 Records will be maintained to meet reporting obligations under section 270(8) of the *Local Government Act 1999*.

4.1.8 No fee will be charged for the application for review.

4.2 Review Process

4.2.1 A person who believes that an expiation notice should not have been issued, or was issued without adequate consideration of the circumstances, may submit a written application for review to Council. The application may be made using Council's approved form, by letter or by email.

4.2.2 A person may seek withdrawal of an expiation notice on the basis that:

- they did not commit the offence;
- the notice should not have been given;
- they were not the owner or driver of a motor vehicle at the relevant time;
- the notice is defective; or
- the offence is trifling.

4.2.3 The applicant will be asked to provide any written or pictorial material that supports the application. Council may require a statutory declaration or further information where reasonably necessary to assess the application.

4.2.4 Where an application relies on the offence being trifling, Council may require the application or supporting information to be verified by statutory declaration.

4.2.5 For a motor vehicle-related offence, a person who was not the owner or driver at the relevant time may be required to provide a statutory declaration nominating the owner or driver, in accordance with the applicable legislation.

Council will process each review request within a reasonable timeframe.

The following process will apply:

- The request must be made by the person issued with the expiation notice, or by a person acting with that person's written authority.
- Council will place the expiation notice on hold, including any reminder or enforcement action, until the review is completed. If the notice stands, a reasonable period will be allowed for payment of the expiation fee and any prescribed fees or levies.
- Where an application is made on the ground that the offence is trifling, Council will determine the application before providing the relevant particulars to the Chief Recovery Officer for enforcement action.
- In undertaking a review, the CEO or delegate will have regard to the principles set out in Council's Enforcement Policy, including proportionality, consistency, transparency, procedural fairness and customer experience, together with the particular circumstances of the alleged offence and any information provided by the applicant.
- The CEO or delegate will examine Council records relevant to the issue of the notice and may seek an account from the issuing officer about the alleged offence or surrounding circumstances.
- The CEO or delegate will assess the available material and determine whether the expiation notice should be withdrawn or should stand.
- The applicant will be advised in writing of the outcome and the reasons for the decision, including the options available if the notice stands.
- Only one internal review will ordinarily be considered. This does not

prevent the applicant from electing to be prosecuted, seeking legal advice or making a complaint to the Ombudsman.

4.3 Administrative and Systemic Errors

If Council identifies a processing or procedural error, the CEO or delegate will assess whether a review or other corrective action is required.

Where a systemic issue is identified, Council may temporarily suspend the issue or processing of the affected class of expiation notice until the process has been reviewed and appropriate corrective action taken.

4.4 Circumstances for Review

Each review application will be assessed on its own merits and having regard to the particular circumstances of the alleged offence.

In accordance with Section 16 of the Expiation of Offences Act 1996, an Authorised Officer acting under the relevant legislative authority and Council delegation may withdraw an expiation notice where one or more of the following circumstances applies:

- the alleged offender did not commit the offence, or the notice should not have been issued in respect of the offence;
- a processing, factual or procedural error has occurred and the notice is defective;
- the alleged offender is suffering from a cognitive impairment that excuses the alleged offending;
- for a motor vehicle-related offence, the alleged offender was not the owner or driver at the relevant time and has provided an acceptable statutory declaration nominating the relevant person;
- Council determines that the alleged offender should instead be prosecuted for the offence; or
- Any other circumstance provided under Section 16 of the Expiation of Offences Act 1996.

If Council is satisfied that an offence is trifling, the expiation notice must be withdrawn in respect of that offence.

A person's inattention to their circumstances or ignorance of the law will not, of itself, be sufficient grounds to withdraw an expiation notice.

Financial hardship is not, of itself, grounds for Council to withdraw an expiation notice. A person experiencing financial hardship may contact the Fines Enforcement and Recovery Unit of the Department of Treasury and Finance to enquire about available payment arrangements.

Except for Council by-laws, expiation fees and prescribed fees are set by State legislation or regulation. Council cannot reduce the amount payable.

4.5 Completion of Review

If the outcome of the review is that the expiation notice stands, the applicant may:

- pay the prescribed amount and any associated fees or levies in accordance with the *Expiation of Offences Act 1996*;
- seek a payment arrangement through the Fines Enforcement and Recovery Unit;
- elect to be prosecuted and have the matter determined by a court;
- seek legal advice; or
- make a complaint to the Ombudsman.

A recipient may elect to be prosecuted under section 8 of the *Expiation of Offences Act 1996*. If an election is made, Council may issue a summons requiring the person to attend court to answer the allegation.

Nothing in this policy prevents a person from making a complaint to the Ombudsman at any time under the *Ombudsman Act 1972*.

If no action is taken within the applicable expiation period, the expiation notice may be referred to the Fines Enforcement and Recovery Unit for enforcement in accordance with the *Expiation of Offences Act 1996*.

4. FURTHER INFORMATION

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.robe.sa.gov.au

3 Royal Circus, Robe SA 5276

Copies will be provided to interested parties upon request. Email council@robe.sa.gov.au

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

5. POLICY REVIEW

This policy may be amended at least once every four years following its adoption or most recent amendment.