



GOYDER

South Australia's Heartland

ONE GOYDER:

A united vibrant community that embraces change and is characterised by strong and responsible leadership.

Section 270 Internal Review of a Council Decision Policy & Procedure

S. P. Matthey OAM
MAYOR

Disclaimer: Please note that the contents of the Council Agenda has yet to be considered by Council and recommendations contained herein may be altered or changed by the Council in the process of formally making decisions of Council.

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1. Background

- On 26 August 2019 Mrs Lewis alleged via letter that two dogs owned by Mr Clifford were continually wandering at large and were in contravention of control orders issued against said dogs on 20 October 2015
- On 29 August 2019 an investigation of the allegations was conducted by Councils authorised officers
- On 11 September Mr Clifford was interviewed on site and reminded via letter of the conditions of the control orders issued by Council on 20 October 2015
- On 11 September 2019 Mrs Lewis was interviewed on site and was informed via letter that Council were unable to witness the dog's in question breaching the control orders and the investigation was concluded
- Video footage (16 September 2019) and photographs (1 November 2019) were received from Mrs Lewis
- On 8 November 2019 Mr Clifford was interviewed on site and reminded via letter of the conditions of the control orders issued by Council on 20 October 2015.
- On 14 November 2019 Mrs Lewis requested information pertaining to action taken against Mr Clifford
- On 19 November 2019 the CEO acknowledged Mrs Lewis's request for information pertaining to action taken against Mr Clifford
- On 21 November 2019 Mrs Lewis submitted a Freedom of Information application requesting all documentation regarding any action taken against Mr Clifford
- On 25 November 2019 Council's Freedom of Information Officer responded to Mrs Lewis's Freedom of Information application providing copies of documentation sent to Mr Clifford (dated 11 September 2019 and 8 November 2019)
- On 27 November 2019 Mrs Lewis provided a photograph of a goat allegedly tethered to a fence on Mr Clifford's property, concerned that the goat did not have access to water or shade.
- On 27 November 2019 Council informed Mrs Lewis that she was required to contact the RSPCA regarding her animal welfare concerns
- On 3 December 2019 the CEO acknowledged Mrs Lewis's request for information pertaining to action taken against Mr Clifford (dated 14 November 2019) and advised Mrs Lewis that he was satisfied with Council's investigation and informed Mrs Lewis that Mr Clifford's dogs were being monitored
- On 3 December 2019 Mrs Lewis acknowledge the letter received from Council and noted that Council was continuing to monitor Mr Clifford's dogs
- On 20 December 2019 Mrs Lewis informed Council that she was concerned for her personal safety and alleged that she was being stalked by Mr Clifford
- On 20 December 2019 Council acknowledged Mrs Lewis's concerns and advised Mrs Lewis to contact SA Police
- On 20 December 2019 Mrs Lewis acknowledged Council's advice to seek assistance from SA Police.
- On 27 December 2019 Mrs Lewis made a request to the Mayor for a section 270 Internal Review.

2. List of Interested Persons

- Mrs Elspeth Lewis
Complainant
- Mr Stephen Clifford
Owner of Smokey (Australian Cattle Dog) and Cloe (Mastiff Cross)
- Ms Lisa Jamieson
Authorised Officer (Dog & Cat Management Act 1995)
Regional Council of Goyder 16 July 2019 - Current
- Mr Boyd Kench
Authorised Officer (Dog & Cat Management Act 1995)
Regional Council of Goyder 18 March 2018 - Current
- Mr David J. Stevenson
Chief Executive Officer
Regional Council of Goyder 2015 - Current
- Ms Emily Moore
Executive Services Officer
Regional Council of Goyder 2015 – Current
Accredited Freedom of Information Officer (Freedom of Information Act 1991)
Regional Council of Goyder 2016 – Current

3. Policy Statement

Pursuant to the Internal Review of a Council Decision Policy and Procedure cl. 5, depending on who made the decision the subject of the review, an application for review may be made to the CEO or Mayor of Council.

CEO's powers

Clause 8 of Council's Policy prescribes that the CEO or delegate will assess the application and determine the appropriate action (which may include direct referral of the matter to Council or to an external person or panel to conduct the review). Furthermore, clause 9 prescribes that the CEO may appoint various persons to conduct the review.

Together cl.8 and 9 (relevantly) provide that the CEO may:

- Directly refer the matter to Council;
- Refer to another Council officer who was independent of the original decision (reviewing officer);
- Set up panel;
- Appoint an independent (external) person to conduct the review.

Mayor's powers

Council's Policy does not set out a clear procedure where the Mayor receives an application for review (items 8 and 9 refer to the CEO and their delegate only). However, given Council's Policy requires certain applications be made to the Mayor, the Mayor must have the power to deal with those applications. It is considered reasonable in the circumstances to proceed on the basis that the Mayor has the same powers as the CEO under clause 8 of Council's Policy to deal with applications for review.

4. Conclusion & Recommendations

Review

Where the request for review is referred (presumably directly) to Council under clause 8, the CEO, delegate or Mayor is required to prepare a report to Council which will include **all relevant information** about the decision being reviewed as per clause 13 of Council's Policy.

It is therefore recommended the following in the circumstances where an application relates to a decision that the CEO was involved with or made and the application was made to the Mayor that Council;

a.

the Mayor could refer the matter to Council (implied by clause 8) but the Mayor or delegate will need to prepare a report pursuant to clause 13 (assuming the CEO is conflicted to prepare the report). The Mayor or delegate is not undertaking a review or taking on the role of the reviewing officer. However, the report must contain **all relevant information** to enable the Council to review the decision, as per clause 12 of the Procedure;

That Council refer the request for a Section 270 review received from Mrs Lewis to the Mayor who will prepare a report pursuant to cl. 13. of the Internal Review of a Council Decision Policy and Procedure.

or

b.


the Mayor could refer the matter to an external person or panel (implied by clause 8) to conduct the review. Provided that clause 14 doesn't apply, Council actually has no role to play in the review of the decision, including receiving a report.

That Council refer the request for a Section 270 review received from Mrs Lewis to an external person or panel (implied by cl. 8) to conduct the review.

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5. Internal Review of a Council Decision Policy and Procedure

REGIONAL COUNCIL OF GOYDER

	<i>Internal Review of Council Decisions Policy and Procedure</i>	Section:	I
		Version No:	4.0
		Adopted:	15/9/15
		Reviewed:	Feb 19
		Next Review:	Feb 20
		Minutes Ref:	26/19
		Responsibility:	CEO

A - Preamble

1. Council is committed to transparency in Council decision making, and to providing a fair and objective procedure for the internal review of decisions.
2. Grievances may arise as a result of dissatisfaction with a decision made by Council or its employees, on a wide range of issues including policy, procedure, service fee, etc. All attempts will be made to resolve grievances quickly and efficiently, without the need for a formal request for review.
3. This policy and procedure provides information on formal requests for internal review of decisions of Council, its employees, and other people acting on behalf of Council.
4. Dealing with grievances at the local level is the most effective way of resolving matters quickly. Applicants for review of decisions will be encouraged to participate in the review handling process cooperatively. However, nothing in this procedure negates a community members rights to seek external review through the Ombudsman SA, other legal appeal processes, or the Courts at any time during the internal review process.

B - Scope

The Local Government Act

1. The Internal Review of Council Decisions Procedure has been adopted in accordance with Section 270 of the Local Government Act 1999. The procedure is one aspect of Council's community member focussed approach to service delivery. It provides a further opportunity to review the way Council provides services to the community, and to identify areas for improvement.
2. The Internal Review of Council Decisions Policy and Procedure applies when reviewing decisions of Council as outlined below and applies to all Council staff who may be involved in receiving and dealing with an application for review of a Council decision.

Relationship with other Council Policies and Procedures

3. Council also has a Compliments, Comments and Complaints Handling Policy and Procedure for dealing with complaints and requests for service. As a general rule, Council will promote that Policy with its associated procedures in the first instance as it offers the potential for immediate resolution.
4. An Internal Review of a Council Decision is the third tier in Council's complaints handling process and will commence at the point where:
 - A request for the review of a Council decision is received; or
 - A complaint escalates to Tier 3 under Council's Compliments, Comments and Complaints Handling Policy and Procedure.

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Matters outside the scope of the Policy

5. Other provisions in the *Local Government Act 1999* prescribe appeal arrangements in certain circumstances. For example, objections to valuations made by a Council and appeals against orders made pursuant 254 of the Act (Power to make orders).
6. In addition, the Internal Review of Council Decisions Policy and Procedure may not apply when an alternative statutory process for a review or appeal exists in other legislation.

Examples of other legislation containing unique statutory processes include:

- *Development Act 1993* and appeals to the Environment, Resources and Development Court;
 - *Freedom of Information Act 1991*;
 - *Ombudsman Act 1972*;
 - The Act in respect to Section 255 Order to the Environment, Resources and Development Court;
 - 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 Office;
 - Control Order under the *Dog and Cat Management Act 1995*;
 - A section 92 notice under the *South Australian Public Health Act 2011*.
 - Environmental Protection Act 1993;
 - Food Act 2001;
 - Electoral Act 1985;
 - Expiation of Offences Act 1996;
 - Fair Work Act 1994;
 - Road Traffic Act 1961 & Australian Road Rules;
 - Fire and Emergency Services Act 2005;
7. While Council prefers to work with its community members to resolve requests for review quickly and effectively, an applicant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. Note that as a general rule, the Ombudsman prefers that matters be addressed by Council in the first instance, unless that is not appropriate in the circumstances.
 8. Full cooperation with any such authority will be afforded as necessary, in order to resolve the matter as quickly as possible.

C – POLICY PURPOSE/OBJECTIVES

1. The purpose of the Internal Review of Council Decisions Policy and Procedure is to provide open, responsive and accountable government and access to a fair, consistent and structure process for any party dissatisfied with a decision which has been made by Council with confidence that these matters will be dealt with objectively, fairly and in a timely manner.
2. Section 270 of the Local Government Act 1999 (the Act) requires Council to maintain “policies, practices and procedures” for dealing with request for service and complaints including a procedure about the “review of decisions” of
 - a. The Council;
 - b. Employees of the Council;
 - c. Other persons acting on behalf of the Council.

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3. An internal review of a Council decision enables Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant.

D - DEFINITIONS

Alternative Dispute Resolution includes mediation, conciliation or neutral evaluation as set out in section 271 of the *Local Government Act 1999*.

Applicant is any party lodging the request for review of a decision and could be an individual or a group, including residents, ratepayers, business owners, users of Council facilities and visitors to the area.

Business Day means a day when the Council is normally open for business, i.e. Monday to Friday, excluding public holidays.

CEO is the Chief Executive Officer of Council.

Council refers to the Regional Council of Goyder

Council Decision is a formal decision of the Elected Council or a section 41 Council Committee, a decision made under delegation by an employee of Council, or a decision by other persons acting on behalf of Council.

Decision-maker refers to the individual or entity responsible for the decision under review.

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

Reviewer refers to the individual or entity responsible for resolution of a request for review of a decision.

Vexatious request is any request from an applicant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the applicant and/or is considered by the reviewing officer to be mischievous, without sufficient grounds or serving only to cause annoyance.

E - POLICY STATEMENT

1. Council is committed to open, responsive and accountable government. This includes providing processes by which community members, who feel they have been adversely affected by a decision of Council, can have their grievances considered.

Equity of Treatment

2. The Internal Review of Council Decisions Policy and Procedure is based on four principles, which are fundamental in the way Council approaches applications for review of Council decisions. They are:
 - Fair treatment: which requires impartiality, confidentiality and transparency at all stages of the process;
 - Accessibility: to be accessible there must be broad public awareness about Council's policies and procedures and a range of contact options;
 - Responsiveness: this will be achieved by providing sufficient resources, well trained staff and ongoing review and improvement of the systems;
 - Efficiency: requests and complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity; Integrated approach to issues under review which have overlapping functional responsibilities.

Applications for Review of a Decision

Making an application

3. An application for a review of a Council decision provides Council with an opportunity to revisit a decision.
4. An application must be in writing including:
 - Name and residential address of the applicant
 - Postal address if different from above

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- Daytime telephone number
 - The reasons for applying for the review (that is, why the applicant believes that the decision is wrong).
5. An application must be address to the CEO or the Mayor depending on the following circumstances:
- If the request for a review of a decision made by Council as the elected body, or a decision made by an employee of Council, or other person acting on behalf of Council, the application should be addressed to the Chief Executive Officer of Council; or
 - If the request is for a review of a decision made by the Chief Executive Officer, the application should be addressed to the Mayor.

By post or hand-delivered:
 Internal Review Request
 Chief Executive Officer or Mayor
 Regional Council of Goyder
 1 Market Square
 BURRA SA 5417

or

By email:
 Internal Review Request
 Chief Executive Officer or Mayor
council@goyder.sa.gov.au

Although Council can be expected to have information and material relevant to the matter under review, an application for review may also include new, relevant information or evidence to support the application.

7. The process for applying and participating in a review of a Council decision is to be made as accessible as possible, with assistance provided if considered necessary. Assistance may include interpreter and/or translation services, assisting 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.
8. The CEO or delegate will assess the application and determine the appropriate action. This may include direct referral of the matter to Council, or to an external person or panel independent of the Council to conduct the review, or to SAPOL if a criminal matter or to the Office of Public Integrity.
9. The CEO may appoint another Council Officer (the “reviewing officer”) such as a member of the Senior Management Team, who was independent of the original decision, or set up a panel for the express purpose (i.e. it does not have permanent status) or appoint an independent person to conduct the review.
10. Where the CEO or delegate, or reviewing officer has 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 (OPI) in accordance with the *Independent Commissioner Against Corruption Act 2012*.

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11. The role of the reviewing officer is to:
- Explain the procedure to the applicant and explore what options are available to resolve the matter, such as alternative dispute resolution, before a formal application is lodged;
 - Maintain a register of all applications for internal review lodged and the outcome;
 - Acknowledge receipt of the application;
 - Outline the timeframes involved and the action to be taken in the first instance;
 - Undertake a preliminary investigation to determine what (if any) actions have already been taken to try to resolve the matter;
 - Keep the applicant informed of progress;
 - Ensure that adequate records of the review process and findings are produced and maintained;
 - Where matters are referred to the Council itself for consideration, provide a report(s) to Council at intervals through the review process and a final report at the conclusion of the process.
12. In undertaking the internal review, the CEO, or Council, or delegated party will review the decision in question to ensure that the original decision making process has regard to the following:
- The decision maker had the power to make the decision;
 - All matters relevant to the decision were considered and were not influenced by extraneous factors;
 - The process was free from bias;
 - The decision maker did not exercise a discretion or power in bad faith or for improper purpose;
 - The decision was made on facts and evidence;
 - The decision was reasonable;
 - Any relevant legislation, policies or procedures were considered;
 - The decision maker did not exercise a discretionary power at the direction of another person.
13. Where the request for review is referred to Council, the CEO or delegate (or Mayor) will prepare a report to Council which will include all relevant information about the decision being reviewed.

Council Review

14. Matters that will be referred to the Council itself for consideration, or further consideration are:
- Requests for review of a decision formally made by Council or for alteration to a Council Policy;
 - Requests for review of a decision made by the CEO which is not supported by Council policy or clear procedural guidelines;
 - Requests for review of a decision made by an officer of the Council which is not supported by Council Policy or clear procedural guidelines.
15. Council may refuse to consider an application for review if:
- An application is made by an employee of Council and relates to an issue concerning their employment;
 - It appears that an application is frivolous or vexatious;
 - An applicant does not have sufficient interest in a matter.
16. Pursuant to Section 270(2)(ca) of the *Local Government Act 1999*, where the application for review relates to the impact a declaration of rates or service charges may have on an applicant, the review will be dealt with promptly and if appropriate be addressed through the provision of relief or concessions under the Local Government Act 1999. It is important to note that section 270(9) of the Act provides as follows: "The right of Council 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 council 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)."

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17. Where a request for review has been referred to Council, the applicant will be advised of the date that the matter will be presented and will be given the opportunity to provide a written or verbal submission (i.e. deputation) in relation to the report for Council's consideration.

Process Timescale

18. Applications for a review of a Council decision are to be formally acknowledged within 10 working days or receipt, including advice to the applicant about the anticipated review process and time line.
19. In most cases requests for review will be considered and determined within 28 days. However, in some circumstances the review process may take longer.
20. The applicant will be encouraged to participate cooperatively in the review process. The applicant will be kept informed about the progress of the review either by email, letter or telephone.
22. Opportunity to provide additional information:
- After initially assessing an application for an internal review of council decision, the reviewing officer may (if deemed appropriate) invite the applicant to provide further information to assist in understanding the applicant's concerns, the issue to be investigated and the outcome or remedy sought.
 - 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 a council decision.
23. The applicant will be informed in writing of the outcome of the review within 10 business days of the determination being made.
24. While there is no statutory requirement to give reasons for a decision, Council may provide reasons for the decision of the reviewing officer where practicable. Council will aim to give reasons to explain the outcome where:
- A decision is not in accordance with the adopted policy;
 - A decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way;
 - Conditions are attached to any approval, consent, permit, licence or other authorisation.
25. There is no application fee for a formal internal review under section 270(1) of the *Local Government Act 1999*.

Procedural Fairness

26. Council will observe the principles of procedural fairness (also called "natural justice") when exercising its statutory powers which could affect the rights and interests of individuals.
27. "Procedural fairness" involves:
- giving an individual:
 - a right to put their case forward; and
 - an opportunity to provide all documentary evidence, rather than an oral hearing.
 - ensuring that the reviewer is not biased and does not have a personal interest in the outcome, and
 - acting only on proper evidence.

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Remedies

28. Where the review of a decision upholds the applicant's grievance and appropriate remedy or response will be determined which is consistent and fair for both Council and the applicant. The remedy will be proportionate and appropriate to the matter. The range of outcomes includes:
- An explanation;
 - Mediation, conciliation, or neutral evaluation;
 - A change of policy, procedure or practice;
 - A correction of misleading records;
 - Disciplinary action;
 - Referral of a matter to an external agency for further investigation or prosecution.

Confidentiality

29. 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.
30. The applicant will be encouraged to observe confidentiality as this is likely to achieve the fairest result for all concerned.
31. The applicant's personal information will be used by the reviewing officer in relation to investigating and reviewing the application.
32. Only relevant parties will be involved in the internal review process.
33. Where a request for review is referred to the Elected Council for determination, the Council may consider the matter in confidence only where it is lawful and appropriate to do so, subject to there being grounds under section 90(3) of the *Local Government Act 1999*.
34. If the application is referred to the Ombudsman, Council will share any relevant information relating to the application with the Ombudsman's office in accordance with the *Ombudsman Act 1972*.
35. Information contained within the application may be accessible under the *Freedom of Information Act 1991*.

Record keeping

36. The reviewing officer must keep written records of interviews and the process undertaken.
37. Records must be factual and objective.
38. Records must be securely stored and registered in Council's records management system and in compliance with the *State Records Act 1997*.
39. Only those persons with a genuine need to view the material will be allowed access to the records.

Annual Reporting

40. In accordance with section 270(8) of the Local Government Act 1999, the Council will, on an annual basis, provide information in its Annual Report that relates to:
- The number of applications for review made under this section, and
 - The kinds of matters to which the applications relate; and
 - The outcome of the applications made under this section; and
 - Such other matters as may be prescribed by the Regulations Under the Act.

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Dispute Resolution

- 41.** At its absolute discretion, and in accordance with section 271 of the Local Government Act 1999, the Council may use alternate dispute resolution methods such as mediation, conciliation or neutral evaluation to resolve an application in circumstances where the CEO or his/her delegate deems such a course of action appropriate and the applicant is amenable to that process.
- 42.** Costs and expenses associated with mediation and/or conciliation and neutral evaluation will be shared equally between the Council and the other party in accordance with section 271(7) of the *Local Government Act 1999*.

Document History	Version No:	Issue Date:	Description of Change:
	1.0	15/9/15	Adopted.
	1.1	20/9/16	Reviewed with changes. Refer NCOR-92016-8073
	2.0	July 2017	Reviewed with changes, following the Ombudsman's audit report. Refer NCOR-82017-2496.
	3.0	Dec 2017	Reviewed with changes – NCOR-122017-4117
	4.0	Feb 2019	Reviewed with major changes 26/19

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6. Relevant Documentation

01	26.08.2019 12.23pm	Email	Complaint regarding Mr Clifford's Dogs	EL to LJ
02	28.08.2019 8.33am	Email	Advising that requesting assistance from CGVC	LJ to EL
03	28.08.2019 8.45am	Email	Response to the above	EL to LJ
04	28.08.2019 9.08am	Video via Email	Video footage	EL to LJ
	29.08.2019	Telephone	Discussed initial complaint & advice to receive assistance from CGVC Shared Service Compliance Officers	LJ to EL
05	29.08.2019 9.26am	Email	Further information regarding support person Ms Helen Szuty and meeting request	EL to LJ
06	29.08.2019 3.14pm	Email	Advised that CGVC compliance officers investigating, meeting not required	LJ to EL
07	29.08.2019 3.25pm	Email	Receipt confirmation of the above	EL to LJ
08	11.09.2019	Letter	Response to initial complaint and unable to witness dog's wandering at large	BK to EL
09	11.09.2019	Letter	Advising owner that a complaint had been received about their dogs	BK to SC
10	16.09.2019 6.50am	Email	Requesting Boyd Kench's direct email address	EL to LJ
11	16.09.2019 1.35pm	Email	Advice that letter dated 11.09.2019 from Boyd Kench had been received, 2 nd request Boyd Kench's direct email address	EL to LJ
12	16.09.2019 4.33pm	Email	3 rd request for Boyd Kench's direct email address	EL to Council
13	22.10.2019 9.42am	Video via Email	Video footage	EL to LJ
14	22.10.2019 10.06am	Email	Response to the above – advised that offence had not occurred as; 1. the dog nor the person are identifiable 2. the person within the footage is considered to have effective control of the dog Advised that Council will continue to monitor and ensure that control orders are enforced where necessary	LJ to EL
15	22.10.2019 10.55am	Email	Response to above describing video footage and persons within	EL to LJ
16	23.10.2019 2.55pm	Letter via Email	2 nd response to the above asking that immediate action be taken	EL to LJ
17	01.11.2019 3.47pm	Email	Photographs provided	EL to LJ
18	06.11.2019 11.18am	Email	Receipt of above	LJ to EL
	08.11.2019	Site visit	Visit to dog owners Mr Clifford's property	BK to SC
19	08.11.2019	Letter	Reminding SC of control orders	BK to SC
20	13.11.2019	Letter	Response to 2 nd response dated 23.10.2019 re lack of appropriate evidence, advising that council continues to monitor	LJ to EL
21	14.11.2019 2.15pm	Email	Asking if Council had been in receipt of two photographs taken (received by Council 01.11.2019)	EL to LJ
22	14.11.2019 3.57pm	Email	2 nd response to photographs received 01.11.2019 requesting what action has been taken	EL to LJ
23	18.11.2019	Letter via Email	CEO advising Mrs Lewis that he is reviewing the above matter	CEO to EL
24	18.11.2019 11.23am	Email	Response to the above disappointed that review may take 10 working days and confused that evidence provided thus far is not suitable	EL to CEO
25	21.11.2019	FOI	Request for FOI	EM to Council
26	25.11.2019	FOI	Response to FOI including letter dated 8 th November 2019 and letter dated 11 th September 2019	EM to EL
27	27.11.2019 11.18am	Email	Concerns about tethered goat without water on Mr Clifford's Property	EL to LJ
28	27.11.2019 12.17pm	Email	Advised to contact RSPCA as the appropriate agency	LJ to EL
29	03.12.2019	Letter	Confirmed that Council is satisfied with appropriate action taken thus far and that Council is continuing to monitor	CEO to EL
30	03.12.2019 9.41am	Email	Response to the above. Also noting that she has noted that Council is monitoring the situation	EL to CEO
31	20.12.2019 1.00pm	Email	Advising Council that she fears for her safety and believes Mr Clifford is stalking her	EL to CEO
32	20.12.2019 1.13pm	Email	Response to the above, advised to contact Police	LJ to EL
33	20.12.2019 1.20pm	Email	Response to the above, advising that she will be attending the Port Pirie Police Station	EL to LJ
34	27.12.2019	Letter	Request for section 270 Internal Review	EL to Mayor

CONFIDENTIAL

26TH AUGUST 2019 12:23PM

> Sent: Monday, 26 August 2019 12:23 PM

> To: Lisa Jamieson <ljamieson@goyder.sa.gov.au>

> Subject: Complaint

>

> August 26, 2019 Lisa Jamieson

> Compliance Officer Regional Council of Goyder

> 1 Market Square

> BURRA. SA 5417

>

> Dear Ms Jamieson,

>

> My name is Elspeth Lewis. I reside at Whyte Yarcowie.

>

> I wish to lodge a complaint about Steve Clifford's two dogs. They are allowed to wander outside their property - unleashed and unmuzzled - contrary to Orders issued by the Goyder Council's former Compliance Officer, Barry Richards.

>

> This is a serious discrepancy that keeps occurring in spite of the Orders. When I have attempted to take photos of them, they are called back inside immediately. However, I was able to take a short video of them, at 9.35 am, on October 21, 2017, which I will forward to you if you wish. I consider that these dogs are dangerous - they have been trained to kill goats, let alone a defenceless little dog, Lulu, our much-loved Maltese/Poodle cross. I keep my two dogs as safe as possible because of this problem.

>

> I live alone, as my husband, Noel, now resides in Aged Care, diagnosed with Dementia. I do fear reprisals from Clifford, which certainly could occur.

>

> I am also forwarding this email to David Stevenson as well.

>

> Yours faithfully

>

> ELSPETH LEWIS

>

>

> Sent from my iPhone



28TH AUGUST 2019 8.33AM

Sent from my iPhone

> On 28 Aug 2019, at 8:33 am, Lisa Jamieson <ljamieson@goyder.sa.gov.au> wrote:

>

> Dear Elspeth

>

> Thank you for your email.

>

> I have familiarised myself with the incident that occurred in 2015 and will be contacting our Compliance Officers who operate under a shared service agreement to instigate an investigation. (I assist with the administrative side of the Dog and Cat Management however I am not currently an Authorised Officer).

>

> Are you able to provide any recent evidence of Mr Clifford's dogs wandering outside of their property?

>

> I am out of the office for most of today but wanted to acknowledge your email. I will aim to call you late this afternoon (between 4pm and 5pm) if that's convenient?

>

> Kind regards

>

> Lisa

>

>

> Lisa Jamieson



28TH AUGUST 2019 - 8.45AM

-----Original Message-----

From: Elspeth Lewis [<mailto:Elspeth.Lewis@outlook.com>]

Sent: Wednesday, 28 August 2019 8:45 AM

To: Lisa Jamieson <ljamieson@goyder.sa.gov.au>

Subject: Re: Complaint

Dear Lisa,

Thank you for your reply.

As I mentioned in my email yesterday, it is difficult to take photos of the Clifford dogs as he calls them in when he sees me. However, I will keep endeavouring to take advantage of the opportunity to do so. The Clifford property is not enclosed.

I acknowledge the information about your position that you have described, and that you will be instigating an investigation.

Awaiting your phone call this afternoon.

Thank you.

Kind regards

ELSPETH LEWIS

Sent from my iPhone



28TH AUGUST 2019 - 9.08am

(Video footage)




Wed 28/08/2019 9:08 AM


Elspeth Lewis <Elspeth.Lewis@outlook.com>


Video


To Lisa Jamieson

 If there are problems with how this message is displayed, click here to view it in a web browser.

 Message

 ATT00001.htm

 ATT00002.htm

 ATT00003.htm

[Download Attachment](#)
[Available until 27 Sep 2019](#)

29TH AUGUST 2019 9.26AM

----- Original message -----

From: Elspeth Lewis <Elspeth.Lewis@outlook.com>

Date: 29/8/19 9:26 am (GMT+09:30)

To: Lisa Jamieson <ljamieson@goyder.sa.gov.au>

Subject: Meeting time

Dear Lisa,

Further to our phone conversation yesterday, I contacted Helen Szuty, my Support Person, who is happy for me to give you her mobile number, 0488231481, if needed.

I advised her that a meeting with you will be arranged. Helen would like to meet with you as well.

She is only going to be available early afternoon next Wednesday, September 4th, to attend with me, perhaps at the Goyder Council Chambers?

Please advise.

Kind regards

ELSPETH LEWIS

Sent from my iPhone



29TH AUGUST 2019 3.14PM

Sent from my iPhone

On 29 Aug 2019, at 3:14 pm, Lisa Jamieson <ljamieson@goyder.sa.gov.au> wrote:

Dear Elspeth

At this stage, the compliance officers are satisfied that they have enough information to instigate an investigation into Mr Cliffords dogs wandering and therefore a meeting is not required.

The compliance officers will advise me of their findings and I will make contact with you when they do.

Kind regards

Lisa



29TH AUGUST 2019 3.25PM

Dear Lisa,

Thank you for your email advising me that an investigation is to be instigated without attendance from me and my Support Person, Helen Szuty.

I await the delivery of the findings of the Compliance Officers into the matter under investigation, and contact from you.

Thank you

Kind regards

ELSPETH LEWIS

Sent from my iPhone





Ref: ICOR-82019-2476
11/09/2019

Elspeth Lewis
PO Box 15
WHYTE YARCOWIE SA 5420

Re: Dogs wandering at large

Dear Elspeth,

I refer to your report of two dogs in breach of their Control Order at large in Whyte Yarcowie.

Please be advised Council staff have inspected the property on several occasions, however the dogs subject to the Control (Nuisance Dog) Orders have not been witnessed wandering at large.

I have written to the owner of the two dogs reminding them of their requirements under the previously issued Control Orders, and outlined the penalties for non-compliance. Council staff will continue to monitor the site to ensure the Control Orders are enforced where necessary.

Should you have any queries please do not hesitate to contact the Burra Office on (08) 8892 0100.

Yours sincerely,

A handwritten signature in black ink, appearing to be "BK" followed by a flourish.

Boyd Kench
Compliance Officer

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au



Ref: ICOR-82019-2476
11/09/2019

Stephen Darcy Clifford
PO Box 20
WHYTE YARCOWIE SA 5420

Re: Control (Nuisance Dog) Orders

Dear Stephen,

Please be advised Council has received a complaint that two dogs owned by you have allegedly been creating a nuisance by wandering at large.

As you are aware, both your dogs have Control (Nuisance Dog) Orders on them, with the following conditions that must be adhered to at all times:

- (a). The dog, while on premises of which the person who is responsible for the control of the dog is the occupier, is to be kept indoors or in an enclosure that is constructed so as to prevent the dog escaping from it; and
- (b). The dog, except while confined to premises of which the person who is responsible for the control of the dog is the occupier, is to be under the effective control of a person by means of physical restraint; and
- (c). All reasonable steps are to be taken to prevent the dog(s) repeating the behaviour that gave rise to the order.

The penalty for non-compliance with a Control (Nuisance Dog) Order is \$500 per incident. On this occasion, Council will not be issuing an expiation, however it is essential you take this opportunity to inspect your property to ensure your dogs cannot escape and continue to wander at large.

Should you have any queries please do not hesitate to contact the Burra Office on (08) 8892 0100, alternatively we look forward to your cooperation with this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Boyd Kench".

Boyd Kench
Compliance Officer

Regional Council of Goyder | 1 Market Square, Burra SA 5417

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16TH SEPTEMBER 2019 – 6.50AM

-----Original Message-----

From: Elspeth Lewis [<mailto:Elspeth.Lewis@outlook.com>]

Sent: Monday, 16 September 2019 6:50 AM

To: Council Default <council@goyder.sa.gov.au>

Subject: Email address for Boyd Kench

Good morning,

I would like Boyd Kench's email address.

Thank you

ELSPETH LEWIS

WHYTE YARCOWIE

Sent from my iPhone



16TH SEPTEMBER 2019 1.35PM

Good afternoon Lisa,

I received a letter dated September 11th, from Boyd Kench, Compliance Officer, at Goyder Council. I wish to reply to his letter by email.

I emailed the office this morning asking for his email address, and have also rung the Council offices asking for same a while ago. I have not received a reply to both times. I want to forward the video of the Clifford dogs off their property on Saturday, October 21st, 2017, at 9.35 am, to him, that I have forwarded to you.

Can you help?

Thank you

ELSPETH LEWIS
WHYTE YARCOWIE.



16TH SEPTEMBER 2019 4.33PM

From: Elspeth Lewis [<mailto:Elspeth.Lewis@outlook.com>]

Sent: Monday, 16 September 2019 4:33 PM

To: David Stevenson <dstevenson@goyder.sa.gov.au>

Subject: Video of Clifford dogs off property

[Download Attachment](#)

[Available until 16 Oct 2019](#)

Dear Mr Stevenson,

I am forwarding a short video to you taken on October 21st, 2017, of the Clifford dogs off their property, for your information.

I have sent this video to Lisa Jamieson, and am waiting for Boyd Kench, Compliance Officer at Goyder Council, to forward me his email address to me so I can forward a reply to his letter of September 11th, 2019, together with this video.

Addition:

I rang the Goyder Council again re Boyd Kench's email and was advised to contact him at Clare Council, so have sent an email to him there.

Yours faithfully,

ELSPETH LEWIS



22ND OCTOBER 2019 9.42AM
(VIDEO FOOTAGE)

From: Elspeth Lewis [<mailto:Elspeth.Lewis@outlook.com>]

Sent: Sunday, 20 October 2019 9:42 AM

To: Lisa Jamieson <ljamieson@goyder.sa.gov.au>

Subject: Clifford dogs off property

[Download Attachment](#)

[Available until 19 Nov 2019](#)



22ND OCTOBER 2019 10.06AM

On 22 Oct 2019, at 10:06 am, Lisa Jamieson <ljamieson@goyder.sa.gov.au> wrote:

Hi Elspeth,

Thank you for your email.

We have reviewed the footage you emailed on 20/10/2019 and have concluded that an offence has not occurred in this instance.

The basis for our decision is:

1. Nor the dogs or person in the video footage is able to be identified. (The video footage also contains no date / time)
2. The person within this video footage is considered to have 'effective control of the dog' by command, as the dog is within close proximity to the person and the person is able to see the dog/s at all times. As per the Dog and Cat Management Act 1995 (see below), a dog is considered to be wandering at large if
 - (a) the dog is in a public place or is in a private place without the consent of the occupier; and
 - (b) no person is exercising effective control over the dog.

Dog and Cat Management Act 1995 definition:

Dog wandering at large

- (1) For the purposes of this Act, a dog will be taken to be wandering at large while—
 - (a) the dog is in a public place or is in a private place without the consent of the occupier; and
 - (b) no person is exercising effective control over the dog.
- (2) However a dog will not be taken to be wandering at large while—
 - (a) the dog is being used in the droving or tending of stock or is going to or returning from a place where it will be, or has been, so used; or
 - (b) the dog is being trained for, or participating in, an organised activity being a race, trial, class or show or in retrieving, hunting or other sporting exercise customarily involving the running of one or more dogs; or
 - (c) the dog is in a vehicle despite the fact that it is not effectively secured.

Effective control of dog

For the purposes of this Act, a dog is under the effective control of a person only while—

- (a) the person is exercising effective control of the dog—
 - (i) by means of a chain, cord or leash that does not exceed 2 metres in length restraining the dog; or
 - (ii) by command, the dog being in close proximity to the person and the person being able to see the dog at all times; or
- (b) the person has effectively secured the dog—
 - (i) by placing it in a cage, vehicle or other object or structure; or
 - (ii) by tethering it to a fixed object by means of a chain, cord or leash that does not exceed 2 metres in length.

We will continue to monitor the area to ensure that the control orders are enforced where necessary.

Kind regards

Lisa

22ND OCTOBER 2019 10.55AM

Hi Lisa,

Thank you for your reply.

As you advised me to be mindful of my safety, I felt safe enough to take the video from a distance - the person in the video is Steven Clifford with long white hair and a white beard, and the dogs are his. I thought the video was clear - it was taken on the block opposite the property where the dogs are kept. I find it difficult as I know what the dogs look like or I would not have taken the video at all. They were unleashed and unrestrained.

Very disappointing Lisa.

Kind regards,

ELSPETH LEWIS

Sent from my iPhone



23RD OCTOBER 2019 2.55PM

PO Box 15,

Whyte Yarcowie SA 5420.

23 October 2019.

Ms. Lisa Jamieson,
Information Officer,
Regional Council of Goyder,
1 Market Square,
Burra SA 5417.

Dear Ms. Jamieson,

Thank you for your email dated the 22nd of October 2019. I refer you to the Control (Nuisance Dog) Orders dated the 8th of October 2015 with reference to 'Smokey' and 'Cloe' owned by Mr. Stephen Clifford of Whyte Yarcowie.

"Order requirements

Pursuant to section 50 of the *Dog and Cat Management Act 1995*, the Council orders that:

b) the dog, except while confined to premises of which the person who is responsible for the control of the dog(s) is the occupier, is to be under the effective control of a person by means of physical restraint...

If this order is contravened, any person who owns or is responsible for the control of the dog is guilty of an offence against the Act."

I ask that immediate action be taken to enforce the Control Orders.

I look forward to hearing further from you.

Yours faithfully,
ELSPETH LEWIS.

Cc Mr. Boyd Kench, Compliance Officer, Regional Council of Goyder.

Mr. David Stevenson, Chief Executive Officer, Regional Council of Goyder.

1ST NOVEMBER 2019 3.47

Hi Lisa,

My friend Gill Kennett from Jamestown who is aware of the problems with the Clifford dogs managed to take these two pics of the black dog the Rhodesian Ridgeback on Tuesday October 29. It's in front of the clothesline but on the road under no supervision. She was unable to send these until today.

ELSPETH LEWIS



6TH NOVEMBER 2019 11.18AM

Thank you Elspeth

Kind regards

Lisa



File: 1.71.3.1

8th November 2019

Stephen Clifford
PO Box 20
Whyte Yarcowie SA 5420

Dear Stephen

RE: CONTROL (NUISANCE DOG) ORDERS

Thank you for your time on Wednesday (6/11/2019). As a follow up to my visit, I am required to summarise the content of our conversation.

As you are aware, both your dogs have a Control (Nuisance Dog) order placed on them. Council has recently received complaints and allegations that your dogs have contravened their orders by wandering at large on the street.

The order requirements are documented on the copy of the order I gave you on Wednesday but to re-iterate, the following conditions must be adhered to at all times;

- (a) The dog, while on premises of which the person who is responsible for the control of the dog is the occupier, to be kept indoors or in an enclosure that is constructed so as to prevent the dog escaping from it; and
- (b) The dog, except while confined to premises of which the person who is responsible for the control of the dog is the occupier, to be under the effective control of a person by means of physical restraint; and
- (c) All reasonable steps are to be taken to prevent the dog repeating the behaviour that gave rise to the order

As we discussed, if the above conditions are not met, you are considered to be contravening the order. The penalty for this (with sufficient evidence) is \$500 per dog per incident.

Council do not have sufficient evidence to issue an expiation at this time, however, please take this opportunity to ensure that your dog's cannot escape from your property and you are clearly meeting the conditions of the order.

If you have any questions or concerns, please contact me on 8892 0100

Yours sincerely,



Lisa Jamieson
Authorised Officer



Ref: ICOR-102019-3208

13th November 2019

Elspeth Lewis
PO Box 15
Whyte Yarcowie SA 5420

Dear Elspeth

Thank you for your letter dated 23rd October 2019. I apologise for the delay in my reply.

Council are aware of the Control (Nuisance Dog) Order requirements relating to Mr Clifford's dogs, Smokey and Cloe.

To date, Council have not received / obtained sufficient evidence to action enforcement proceedings on a 'contravention of order' offence.

I can assure you that action has certainly been taken and there is ongoing monitoring of the property to ensure compliance with the Control (Nuisance Dog) Orders.

Yours sincerely

Lisa Jamieson
Information Officer



14TH NOVEMBER 2019 2.15PM

Dear Lisa,

Thank you for your letter dated November 13, 2019.

The third paragraph - did you receive the 2 photos of Clifford's black dog OUT on the road?
In front of the clothesline? My friend Gill Kennett from Jamestown took them as she is aware of the restrictions - she was reluctant to go any closer.
Surely you can see that the dog was NOT accompanied by anybody. There seems to be some confusion regarding this regulation.

Very disappointing, Lisa.

Yours faithfully

ELSPETH LEWIS

Sent from my iPhone



14TH NOVEMBER 2019 3.57PM

----- Original message -----

From: Elspeth Lewis <Elspeth.Lewis@outlook.com>

Date: 14/11/19 3:57 pm (GMT+09:30)

To: Lisa Jamieson <ljamieson@goyder.sa.gov.au>

Subject: Re: Further reply to letter from Lisa

Dear Lisa,

Further to my reply to you today, could you please explain to me what action has been taken regarding this matter.

I would like to be kept informed.

Yours faithfully,

ELSPETH LEWIS





Ref: ICOR-102019-3208

19th November 2019

Mrs Elspeth Lewis
c/- Elspeth.Lewis@outlook.com

Dear Mrs Lewis

RE: Communication regarding Mr Clifford's Dogs dated between 20th October and 14th November

I am in receipt of the above mentioned correspondence.

In accordance with Councils Compliments, Comments and Complaints Handling Policy and Procedure Council will respond to your correspondence where possible within 10 working days. If we are unable to respond during this timeframe you will be advised.

Details of your concerns have been recorded in Councils record management system, the reference number is noted at the top left hand corner of this document.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line.

David J. Stevenson
CHIEF EXECUTIVE OFFICER
cc: L. Jamieson

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au

18TH NOVEMBER 2019 11.23AM

----- Original message -----

From: Elspeth Lewis <Elspeth.Lewis@outlook.com>
Date: 18/11/2019 11:23 am (GMT+09:30)
To: David Stevenson <d Stevenson@goyder.sa.gov.au>
Subject: Re: 1938_001.pdf

Dear Mr Stevenson,

Thank you for your letter of November 18, 2019.

I note that my concerns regarding the above reference number have been recorded. I would be very disappointed if you are unable to respond within the 10 day timeframe.

This matter is very straightforward. With videos and photos I have forwarded to Lisa, Boyd, and to you, I fail to see why appropriate action is not being taken.

Please keep me informed.

Yours faithfully

ELSPETH LEWIS



21ST NOVEMBER 2019

**FOI APPLICATION FORM Request
for Access to Documents**

Under Section 13 of the Freedom of Information Act 1991

Please read the attached 'FOI Fact Sheet – Request for Access to Documents'
before completing and lodging your application

Agency Details		
Name of the Agency you are seeking to access documents from: REGIONAL COUNCIL OF GOYDER		
Details of Applicant		
Surname: LEWIS		
Given Names: ELSPETH MARY		
Australian Postal Address: PO BOX 15		
Suburb: WHYTE YARLOWIE		Post Code: 5420
Email (optional): elspeth.lewis@outlook.com		
Contact phone numbers:		
Details of documents being requested		
<small>(Describe the documents you are seeking to access. If you are applying for access to personal information please provide enough information to assist with identification of documents, eg date of birth, previous names etc. Attach more pages if you cannot fit all of the information in this box.)</small>		
ALL DOCUMENTATION IN RELATION TO WHAT ACTION IF ANY HAS BEEN TAKEN BY OFFICERS OF THE REGIONAL COUNCIL OF GOYDER WITH RESPECT TO SMOKEY AND CHOE, 2 DOGS OWNED BY STEPHEN AND SONIA CLIFFORD OF WHYTE YARLOWIE SINCE 18/9/2015		
Do the documents you have described above contain information about your personal affairs? YES / NO (cross out whichever does not apply)		
Form of Access		
<small>(place a tick in the most appropriate boxes)</small>		
I wish to inspect the documents	<input type="checkbox"/> Yes	<input type="checkbox"/> No
I require a copy of the documents	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
I require access in another form	<input type="checkbox"/> Yes	<input type="checkbox"/> No (If yes please specify below)
Specify other form of access here if applicable, e.g transcript of a recorded document.		

Fees and Charges

An application fee of **\$35.00** must be submitted with the completed application form, unless you are seeking to have the application fee waived. If you are seeking to have the application fee waived, please attach evidence supporting why it should be waived e.g. attach a copy of your concession card or other evidence as proof of financial hardship.

In the following section please tick as appropriate

- Is the application fee attached? ☐ Yes ☐ No
- Application fee is in the form of ☒ Cheque ☐ Cash ☐ Money Order
(Do not send cash through the mail)
- Do you require a fee waiver? ☒ Yes ☐ No
- Is evidence of the need to waive fees attached? ☒ Yes ☐ No
(e.g. a copy of your concession card)

If you wish to pay your application fee via credit card you will need to ask the agency you are applying to if they accept credit card payments.

If no fee is attached and you do not qualify for a waiver, then this application will not be valid until the fee has been received by the agency.

Applicant's Signature:

J. M. Lewis

Date *21/11/2019*

Notes on lodging this FOI application

Now that you have completed all of the information required in this application form, post or deliver it (along with any required documents e.g. payment or proof of concession for fee waiver) to the agency that holds the documents you are seeking to access.

Please keep a copy of your application for your own reference.

OFFICE USE ONLY

Received on / / 20.....

Acknowledgment sent on / / 20.....

Determination sent on / / 20.....

SOUTH AUSTRALIA

ELSPETH M LEWIS
LOT 101
WEST TCE
WHYTE YARCOWIE SA 5420

CRN **500-708-044S**

NOEL F LEWIS

Expires
**31 MAR
2021**

502-550-843K

Card start 24 Apr 2001

AGE



Ref: 13.40.2.19

25th November 2019

Mrs Elspeth Lewis
PO Box 20
WHYTE YARCOWIE SA 5420

Dear Mrs Lewis,

I refer to your application made under the *Freedom of Information Act 1991* (the FOI Act) received on 21st November 2019 seeking access to documentation pertaining to Mr Clifford's Dogs (Cloe & Smokey) located at Sixth Street, Whyte Yarcowie.

I have determined that the documents that fall within the scope of your application are those listed in the attached document schedule.

If you are unhappy with this determination you are entitled to apply for an internal review in accordance with section 29 of the FOI Act. To make an internal review application, please either write a letter or send the attached form entitled *Application for Review of Determination* to the Principal Officer of this agency, within 30 (calendar) days after you receive this letter.

Should you require any further information please contact me on telephone 08 8892 0100.

Yours sincerely

A handwritten signature in black ink, appearing to be "Emily Moore", written over a light blue horizontal line.

Emily Moore
Accredited FOI Officer
Regional Council of Goyder

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au



**Freedom of Information
DOCUMENT SCHEDULE**

File No: 13.40.2.19
Regional Council of Goyder

25th November 2019

Doc No.	Brief Description	Date of Doc.	Full Access	Part Access or Refused Access	Other
1.	Letter from Council to Mr Clifford	8 th November 2019	YES	-	-
2.	Letter from Council to Mr Clifford	11 th November 2019	YES	-	-

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au

File: 1.71.3.1

8th November 2019

Stephen Clifford
PO Box 20
Whyte Yarcowie SA 5420

Dear Stephen

RE: CONTROL (NUISANCE DOG) ORDERS

Thank you for your time on Wednesday (6/11/2019). As a follow up to my visit, I am required to summarise the content of our conversation.

As you are aware, both your dogs have a Control (Nuisance Dog) order placed on them. Council has recently received complaints and allegations that your dogs have contravened their orders by wandering at large on the street.

The order requirements are documented on the copy of the order I gave you on Wednesday but to re-iterate, the following conditions must be adhered to at all times;

- (a) The dog, while on premises of which the person who is responsible for the control of the dog is the occupier, to be kept indoors or in an enclosure that is constructed so as to prevent the dog escaping from it; and
- (b) The dog, except while confined to premises of which the person who is responsible for the control of the dog is the occupier, to be under the effective control of a person by means of physical restraint; and
- (c) All reasonable steps are to be taken to prevent the dog repeating the behaviour that gave rise to the order

As we discussed, if the above conditions are not met, you are considered to be contravening the order. The penalty for this (with sufficient evidence) is \$500 per dog per incident.

Council do not have sufficient evidence to issue an expiation at this time, however, please take this opportunity to ensure that your dog's cannot escape from your property and you are clearly meeting the conditions of the order.

If you have any questions or concerns, please contact me on 8892 0100

Yours sincerely,



Lisa Jamieson
Authorised Officer



Ref: ICOR-82019-2476

11/09/2019

Stephen Darcy Clifford
PO Box 20
WHYTE YARCOWIE SA 5420

Re: Control (Nuisance Dog) Orders

Dear Stephen,

Please be advised Council has received a complaint that two dogs owned by you have allegedly been creating a nuisance by wandering at large.

As you are aware, both your dogs have Control (Nuisance Dog) Orders on them, with the following conditions that must be adhered to at all times:

- (a). The dog, while on premises of which the person who is responsible for the control of the dog is the occupier, is to be kept indoors or in an enclosure that is constructed so as to prevent the dog escaping from it; and
- (b). The dog, except while confined to premises of which the person who is responsible for the control of the dog is the occupier, is to be under the effective control of a person by means of physical restraint; and
- (c). All reasonable steps are to be taken to prevent the dog(s) repeating the behaviour that gave rise to the order.

The penalty for non-compliance with a Control (Nuisance Dog) Order is \$500 per incident. On this occasion, Council will not be issuing an expiation, however it is essential you take this opportunity to inspect your property to ensure your dogs cannot escape and continue to wander at large.

Should you have any queries please do not hesitate to contact the Burra Office on (08) 8892 0100, alternatively we look forward to your cooperation with this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Boyd Kench".

Boyd Kench
Compliance Officer

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au

FOI FACT SHEET

Your Rights to Review and Appeal

South Australian *Freedom of Information Act 1991*

Please read the information in this fact sheet before completing the attached application form

INTERNAL REVIEW

If you are unhappy with a determination made by an agency (includes South Australian State Government Agency, Local Government Council or University) under the *Freedom of Information Act 1991* (FOI Act) in relation to:

- a freedom of information (FOI) application for access to a document, or
- an FOI application for amendment to your personal records

in most cases, you are entitled to apply for an Internal Review of that determination.

REQUEST AN INTERNAL REVIEW

An Internal Review must be lodged within 30 calendar days of you receiving advice of a determination that you are unhappy with.

Applications must be made in writing in accordance with Section 29 or Section 38 of the FOI Act or using the attached *FOI Application Form for Internal Review of a Determination* (Internal Review Form).

An Internal Review application must be made to the Principal Officer of the agency that made the determination you are seeking to have reviewed.

HOW MUCH DOES AN INTERNAL REVIEW COST?

There is an application fee of **\$35.00** that must be paid when you lodge your Internal Review application if your review request is for access to documents.

There is no application fee for an Internal Review of an FOI application for amendment to your personal records.

Agencies generally accept payment by cash, money order or cheque. If you would like to pay by credit card you will need to ask the agency if they are able to accept credit card payments.

If, as a result of an Internal Review an agency changes or reverses a determination so that access to a document is, or will be, given, the agency will refund the Internal Review application fee paid by the applicant, where applicable.

WHAT IF I HAVE A CONCESSION CARD OR CAN'T AFFORD TO PAY?

If you are the holder of a current concession card or if you can satisfy the agency that the payment of the application fee would cause financial hardship, the agency must waive or remit (reduce or refund) it.

If you are a concession cardholder you will need to provide evidence e.g. attach a copy of your concession card when you make the application. Alternatively you will need to give written reasons as to why the payment of a fee would cause you financial hardship.

HOW LONG DOES AN INTERNAL REVIEW TAKE?

You will be advised of the outcome of your Internal Review application within 14 calendar days of it being received by the agency.

If the agency does not deal with your Internal Review application within 14 calendar days (or you remain unhappy with the outcome of the Internal Review) you are entitled to an External Review by the Ombudsman SA or the Police Ombudsman (if the determination was made by a police officer or the Minister for Police). Alternatively you may apply for a review by the South Australian Civil and Administrative Tribunal (SACAT). See the External Review section below.

WHEN CAN'T I APPLY FOR AN INTERNAL REVIEW?

If the original application determination was made by the Principal Officer of an agency rather than another accredited FOI Officer within the agency, you cannot apply for an Internal Review. However, you can apply for an External Review by the Ombudsman SA, the Police Ombudsman, or apply for a review by SACAT.

EXTERNAL REVIEW

After an Internal Review has been completed, or where you are unable to apply for an Internal Review, and you are unhappy with the determination, you have the right to apply for an External Review.

WHO SHOULD I APPLY TO?

If the determination was made by a police officer or the Minister for Police you can apply to the Police Ombudsman. All other applications for External Review can be made to the Ombudsman SA.

HOW LONG WILL AN EXTERNAL REVIEW TAKE AND HOW MUCH WILL IT COST?

If you wish to make an application for an External Review you must do so within 30 calendar days after being notified of the determination. However, the Ombudsman SA or the Police Ombudsman can extend this time limit at their discretion. There is no fee or charge for External Reviews undertaken by either Ombudsman.

Ombudsman SA

Phone: 8226 8699

Toll Free: 1800 182 150 (within SA)

Email: ombudsman@ombudsman.sa.gov.au

Police Ombudsman

Phone: 8226 8677

Email: policeombudsman@agd.sa.gov.au

REVIEW BY SACAT

You have a right to apply for a review by SACAT if you are unhappy with:

- a determination not subject to Internal Review
- an Internal Review determination, or
- the outcome of a review by the Ombudsman SA or the Police Ombudsman.

You must exercise your right of review with SACAT within 30 calendar days after being advised of the above types of determinations or the results of a review.

Any costs will be determined by SACAT, where applicable. For more information contact SACAT.

Contact Details:

South Australian Civil and Administrative Tribunal (SACAT)

Phone: 1800 723 767

Email: sacat@sacat.sa.gov.au

FOI APPLICATION FORM

For Internal Review of a Determination

Under sections 29 & 38 of the South Australian *Freedom of Information Act 1991*

Please read the attached '*FOI Fact Sheet – Your Rights to Review and Appeal*'
before completing and lodging your Internal Review
application

To the Principal Officer	
Name of the Agency:	
Details of Applicant	
Surname:	
Given Names:	
Australian Postal Address:	
Suburb:	Post Code:
Emails (Optional):	
Contact phone numbers:	
FOI Application Reference Number (if known):	
Details of Internal Review	
<p>I am not satisfied with a determination made by your agency and, therefore, seek a review because:</p> <p>(Please place a tick in the appropriate box)</p> <ul style="list-style-type: none"><input type="checkbox"/> I have been refused access to a document<input type="checkbox"/> I have been refused access to part of a document<input type="checkbox"/> I have been refused a request to amend a personal document<input type="checkbox"/> I have been given access to a document but access has been deferred<input type="checkbox"/> I am a third party specified in the documents but have not been consulted about giving access to another person<input type="checkbox"/> I have been consulted but disagree with the determination to release the documents	

Comments

Include any additional comments you wish to be considered in the review of the determination (*attach additional pages if necessary*).

Fees and Charges

An application fee of **\$35.00** must be submitted with the Internal Review application form, unless you are seeking to have the application fee waived. If you are seeking to have the application fee waived, please attach evidence supporting why it should be waived, e.g. attach a copy of your concession card or other evidence as proof of financial hardship.

An application fee is not required for an Internal Review of an FOI Amendment Application.

In the following section please tick as appropriate

- | | | |
|---|---------------------------------|--|
| Is the application fee attached? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Application Fee is in the form of
(Do not send cash through the mail) | <input type="checkbox"/> Cheque | <input type="checkbox"/> Cash <input type="checkbox"/> Money Order |
| Do you require a fee waiver? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Is evidence of the need to
waive fees attached?
(e.g. a copy of your concession card) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you wish to pay your application fee via credit card you will need to ask the agency you are applying to if they accept credit card payments.

If no application fee is attached and you do not qualify for fee waiver, the agency cannot process your application until the fee has been paid.

If the agency varies or reverses a determination so that access to a document is, or will be, given the agency will refund any Internal Review fees paid by the applicant.

Applicant's Signature:

Date / / 20.....

OFFICE USE ONLY

Received on / / 20..... Acknowledgment

sent on / / 20.....

27TH NOVEMBER 2019 11.18AM

Lisa,

I am very concerned that Steve Clifford has a goat tied up with no water nearby. It is on the block opposite my place. He stopped having goats after Noel and I saw several goats tied up some time ago - we were reluctant to report it because of possible reprisals - this was before his dogs killed Lulu in September 2015.

Are you able to act on this?

ELSPETH LEWIS



27TH NOVEMBER 2019 12.17PM

Dear Elspeth

Please be advised that the responding agency for Animal Welfare concerns is the RSPCA. They can be contacted on 1300 477 722 or www.rspcasa.org.au

Kind regards

Lisa





Ref: ICOR-12019-38

3rd December 2019

Mrs Elspeth Lewis
PO Box 15
WHYTE YARCOWIE SA 5420
C/- Elspeth.Lewis@outlook.com

Dear Mrs Lewis,

Re: Communication regarding Mr Clifford's Dogs dated between 20th October and 14th November 2019

Council has investigated your complaint regarding Mr Clifford's dogs and is satisfied that the appropriate action has been taken by Council staff.

Council will continue to monitor Mr Clifford's dogs and should you have any further reason to be concerned, Council encourages you to contact me via my executive assistant Emily Moore emoore@goyder.sa.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David J. Stevenson". The signature is written over a large, light-colored oval shape.

David J. Stevenson
CHIEF EXECUTIVE OFFICER
Cc: L. Jamieson, B. Kench

Regional Council of Goyder | 1 Market Square, Burra SA 5417

ABN 44 460 359 537 | T (08) 8892 0100 | F (08) 8892 2467 | E council@goyder.sa.gov.au | www.goyder.sa.gov.au

3RD DECEMBER 2019 9.41AM

Dear Ms Moore,

Thank you for forwarding the email from Mr Stevenson.

I have noted that Council is monitoring the Clifford dog situation.

Yours faithfully

ELSPETH LEWIS

Sent from my iPhone



20TH DECEMBER 2019 1.00PM

From: Elspeth Lewis <Elspeth.Lewis@outlook.com>
Date: 20 December 2019 at 1:00:35 pm ACDT
To: David Stevenson <dstevenson@goyder.sa.gov.au>
Subject: Concern about my safety

Dear Mr Stevenson,

I would like to bring to your attention that I may be being stalked by Steven Clifford when I have been in Jamestown shopping.

I will be advising the Police of my concern for my personal safety.

I just thought I should make you aware of this. It is a worry as I am deaf and live alone. Helen Szuty is also very concerned for my safety. My daughter, Mary Standfield, who lives in Port Pirie, is worried as well, as she said people like Clifford are unpredictable.

Just remember that I am the victim here.

Yours faithfully

ELSPETH LEWIS



20TH DECEMBER 2019 1.13PM

On 20 Dec 2019, at 1:13 pm, Lisa Jamieson <ljamieson@goyder.sa.gov.au> wrote:

Dear Elspeth

We acknowledge that you have concerns for your safety and recommend that you address those concerns with SA Police.

Kind regards

Lisa



20TH DECEMBER 2019 1.20PM

Dear Lisa,

Thank you for your reply.

I will be going to Port Pirie on Sunday and will be calling in to the Police Station.

Thank you

ELSPETH LEWIS

Sent from my iPhone



27TH DECEMBER 2019

PO Box 15/West Terrace,
Whyte Yarcowie SA 5420.

27 December 2019.

Internal Review Request,
Mr. Peter Matthey,
Mayor,
Regional Council of Goyder,
1 Market Square,
Burra SA 5417.

Dear Mr. Matthey,

I wish to instigate a Section 270 Review under the Local Government Act 1999 in relation to a decision by the Chief Executive Officer, Mr. David Stevenson, in a letter to me dated the 3rd of December 2019 in which he states:

"Council has investigated your complaint regarding Mr. Clifford's dogs and is satisfied that the appropriate action has been taken by Council staff."

I am dissatisfied with Mr. Stevenson's decision as I consider that the Regional Council of Goyder does have sufficient evidence to issue an expiation. Video evidence provided to both Mr. Stevenson and Ms. Lisa Jamieson, Authorised Officer, Regional Council of Goyder, is surely sufficient evidence to issue an expiation.

I look forward to hearing from you.

Yours faithfully,

ELSPETH LEWIS

0438641840 (mobile).

