

Policy Section:	3. Development, Environment & Regulatory Services
Policy Name:	Expiations
Classification:	Public – Council Policy
Adopted:	14 March 2017
Frequency of Review:	Biennial
Last Review:	September 2017
Next Review Due:	September 2019
Responsible Officer(s):	Team Leader Environment and Regulatory Services Manager Development, Environment and Regulatory Services
Policy and Code of Practice Manual File Ref:	CC10/2601
Council File Reference:	CR17/45110
Legislation Authority:	Expiation of Offences Act 1996 & Regulations
Related Policies and Codes:	N/A
Related Procedures:	N/A

1. INTRODUCTION

- 1.1 The Town of Gawler acknowledges the right of people issued with expiation notices by Council Officers (Authorised Officers) to seek a review of the notice before legal action is taken under the *Expiation of Offences Act 1996* and Regulations. All such reviews will be dealt with fairly, impartially and consistently.
- 1.2 Expiation notices may be issued by Council Officers under provisions of the *Expiation of Offences Act 1996* for alleged offences under the *Local Government Act 1999*, *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999*, *Dog & Cat Management Act 1995*, *Food Act 2001*, *South Australian Public Health Act 2011*, *Environment Protection Act 1993*, *Fire and Emergency Services Act 2005*, *Development Act 1993*, *Private Parking Areas Act 1986*, *Local Nuisance and Litter Control Act 2016* and Council's By-Laws. The *Expiation of Offences Act 1996* details the procedure to be followed after an expiation notice is issued. All expiation notices will be issued in accordance with the relevant legislation.

EXPIATIONS POLICY

- 1.3 An expiation notice is a means whereby Council Officers may report a person for an alleged offence which can be “expiated” by payment of a prescribed fee. Where the fee is not paid within the specified period the matter may be referred to the Courts for processing and recording a conviction for the offence.

2. PROCESS

- 2.1 Where a person wishes to informally dispute the alleged offence or to provide information of extenuating circumstances they may do so in writing to Council within the 28 days expiation period. (Reviews will not be accepted after the 28 day period unless the person gives proof that they did not receive the original notice). The request for review by the person that has received the expiation notice must include/provide evidence to support the request.
- 2.2 Responsible Officers must collate all information for the review including the formal request and any relevant Councils documentation. The review is carried out by the Team Leader Environment and Regulatory Services Administration Officer and Authorised Officers (or their nominee). All requests for review will be considered on their individual merit, but will be subject to the following:
- 2.2.1 Any errors or omissions of fact;
 - 2.2.2 Any errors or omissions in procedure;
 - 2.2.3 Any failure of Council infrastructure/traffic control devices;
 - 2.2.4 Any extenuating circumstances which may ameliorate the offence (documentary evidence must be provided);
 - 2.2.5 Where reasons are associated with health or medical circumstances, documentary evidence must be provided;
 - 2.2.6 Where reasons are associated with a vehicle breakdown, documentary evidence must be provided in the form of receipts or evidence of RAA/Mechanic attendance;
 - 2.2.7 Where documentary evidence cannot be provided the person will be required to declare the information on a statutory declaration. Persons relying on a statutory declaration will be advised that serious penalties apply for false or misleading information within a statutory declaration. The Team Leader Environment and Regulatory Services reserves the right to refer any false or misleading statutory declarations to SAPOL for investigation.
 - 2.2.8 Financial hardship of the person is not a ground considered in a review. Extensions of the time to pay expiations in full will be considered (2 to 4 weeks depending on the amount of the expiation), without penalty. Alternatively a person who advises they have financial hardship can elect to be referred to the Fines Enforcement and Recovery Unit within the Courts Administration system to make arrangements to ‘pay off’ their fines.

2.2.9 The elected Council itself nor its Committees will not become involved in reviews of expiation notices and will not hear deputations regarding individual expiation notices. Where an appeal is rejected by the Chief Executive Officer or Manager of Development, Environment and Regulatory Services (or their nominee) the next course of review is the Courts.

2.2.10 A person issued with an expiation notice may elect to have the matter referred to the Courts at any time.

2.2.11 The matter is trifling.

3. REQUESTS FOR REVIEW

3.1 All requests for review of expiation notices must be in writing setting out the circumstances and basis for disputing the alleged offence and include any documentary evidence for disputing the alleged offence. Requests may be received formally by letter or by email, including a current postal address.

3.2 If at any point an officer suspects that a procedural error may have occurred, the matter should be referred for review immediately without the necessity of a letter. Council reserves the right to re-issue the infringement notice if it deems necessary.

3.3 A hold will be placed on the expiation notice so as not to incur late fees until the matter is reviewed and a written response provided. The review must occur within 28 days of receipt of the request for review.

3.4 The Team Leader Environment and Regulatory Services or Manager of Development, Environment and Regulatory Services (or their nominee) will review all documents received, determine whether the appeal is to be upheld in line with the above criteria and advise the person of the outcome of the review in writing.

3.5 Expiation Notices not withdrawn or waived by the Team Leader Environment and Regulatory Services or Manager of Development, Environment and Regulatory (or their nominee) will be processed in accordance with the procedure outlined in the Expiation of Offences Act 1996. The formal notification in writing indicating that the expiation has not been waived, will provide a date within which the expiation must be paid (usually a further 28 days from the date of the letter will be granted).

3.6 If a notice is not expiated, after a reminder (with late fee added) has been sent, the matter will be referred to the Fines Enforcement and Recovery Unit.

3.7 Once a matter has been referred to the Fines Enforcement and Recovery Unit, Council will not intervene, unless the Fines Enforcement and Recovery Unit seeks to negotiate an outcome.

4. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed on a biennial basis.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

The Policy will be reviewed after each general election of Council.

5. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone:	8522 9211
Fax:	8522 9212
Email:	council@gawler.sa.gov.au
Appointment:	Town of Gawler Administration Centre - 43 High Street, Gawler East SA 5118
Letter:	PO Box 130, Gawler SA 5118

6. AVAILABILITY OF POLICY

The Policy is available for inspection during ordinary business hours at the Council principal office, Town of Gawler Administration Centre - 43 High Street, Gawler East or is available on the Council website at www.gawler.sa.gov.au.

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.