

GUIDANCE FOR A REVIEW OF ACTIONS

Under regulation 6 of the *Public Administration (Review of Action) Regulations 2015*

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This guidance applies to the **Victorian Public Service**. It explains the roles and responsibilities of people participating in a review of actions and the processes involved. A review should only be held if attempts to resolve the matter through other means have been unsuccessful. Once a review is completed, the parties should act quickly to implement the recommendations and introduce practices that would prevent any similar problems from happening again.

1. Registrar

The Review of Actions Registrar (**Registrar**) in each public service body organises the review of actions by:

- appointing an independent Reviewer who has had no prior involvement in the case and who may be either a contractor or an employee;
- explaining the decision to review the matter on the basis of written submissions only or to also hold a formal hearing;
- advising the parties of the date and location of the hearing (if applicable) and the deadline for submissions;
- granting requests to reschedule a hearing (if applicable) due to illness if a medical certificate or other evidence is provided;
- setting expectations regarding the format but not the content of the Reviewer's final report;
- advising the parties that the review's findings will be based on a balance of probabilities and that recommendations will be referred to the head of the organisation or delegate for final decision;
- responding to any questions from the parties about the review but not commenting on the merits of the case;
- informing the employee that he/she may have a support person and/or representative at the hearing and explaining their respective roles;
- suggesting that the employee nominate an alternative support person if that person's availability would unreasonably delay the hearing;
- providing the Reviewer with the application for review, management's response and any relevant legislation, policies or procedures;

- coordinating the receipt of submissions from the parties, and circulating all relevant documents to the parties prior to the hearing (usually seven calendar days before the hearing, unless an alternative time period has been confirmed with the parties);
- liaising with the Reviewer, on behalf of all parties, on all aspects of the hearing, including procedural questions; and
- monitoring all timelines and dates relating to the process, to ensure these comply with the requirements of the policy and procedures.

2. Reviewer

The review officer (**Reviewer**) conducts the review and prepares a report by:

- confirming that he/she does not have any prior personal involvement in the matter;
- upon request, deciding whether to allow both parties to be legally represented if either party would be significantly disadvantaged without legal representation;
- upon request, deciding whether it is appropriate for either party to have a legally qualified support person, given that the review is to be conducted with as little formality as a proper consideration of the matter allows;
- noting if the employee declined to have a support person or representative present;
- explaining the process, protocols and format of the hearing to the parties;
- clarifying the various roles of those present and expected standards of behaviour throughout the hearing;
- adjourning the hearing if the support person wishes to comment or provide advice to the employee;
- asking the support person to leave the hearing if he/she is disruptive;
- conducting the hearing in a way that ensures natural justice and procedural fairness;
- deciding whether or not to accept new information, witness statements, late documentation or oral submissions that have not been made in written submissions;
- deciding whether or not to call witnesses to the hearing to verify their statements;
- deciding whether or not to issue a draft “summary of submissions” to the parties for comment before the report is finalised; and
- providing a written report to the decision-maker within 10 working days, giving the reasons for findings and recommendations.

3. Employee, representative and support person

3.1 Employee

The employee participates in the review to resolve his/her concerns by:

- reading the relevant policies and processes and noting any timelines that must be met;
- confirming that a hearing is an acceptable means of resolving the concerns;
- clarifying the outcome sought from the hearing;
- providing a submission, witness statements and other relevant information to the Registrar by the due date;
- informing the Registrar whether a support person or representative will attend the hearing;
- informing the Reviewer if it is preferable that certain questions be directed to the representative;

- where oral submissions are to be made, deciding whether he/she or the representative will speak;
- working with the manager to maintain productive working relationships, regardless of the outcome of the hearing; and
- remaining professional and acting in good faith at all times.

3.2 Representative

The employee may be represented at the hearing by a colleague, friend, family member or union/association representative. They may be represented by a lawyer only if the Reviewer considers that they would otherwise be at a significant disadvantage. The representative may advocate for the employee, answer questions and make oral submissions. The representative must act in good faith at all times.

3.3 Support person

The employee may be supported professionally and personally at the hearing by a colleague, friend, family member or union/association representative. The support person observes proceedings. They cannot speak on the employee's behalf or direct or disrupt the hearing in any way. They must act in good faith at all times.

4. Manager

The manager participates in the review to consider the employee's concerns by:

- providing a submission and other relevant information to the Registrar by the due date. This may include the sequence of events, background information, witness statements, attempts previously made to resolve the employee's concerns, and any relevant policies and procedures;
- working with the employee to maintain productive working relationships, regardless of the outcomes of the hearing; and
- remaining professional and acting in good faith at all times.

5. Head of the organisation or delegate

The head of the organisation or his/her delegate decides whether to confirm, vary or reject the Reviewer's recommendations.