

Reviews of Reportable Conduct Scheme and Child Safe Standards decisions made by the Commission

Decisions made by the Commission

As part of its role overseeing the Reportable Conduct Scheme and the Child Safe Standards, the Commission may make a number of decisions under the *Child Wellbeing and Safety Act 2005* (the CWS Act). For some of these decisions, if an affected party (the Applicant) disagrees with the decision they can make an application for an internal review by the Commission.

This information sheet provides information on the types of decisions which are reviewable and the process for seeking a review.

What decisions are reviewable

The CWS Act provides that not all decisions made by the Commission are reviewable, and only certain people can apply for review. The following table sets out the types of decision that can be reviewed internally by the Commission, who can apply for review, and the timeframes that apply.

| Section | Type of reviewable decision | Who may seek review | Deadline to lodge application |
|-----------------|--|---|---|
| s16ZI(1) | Finding by the Commission in an own motion investigation under s16O into a reportable allegation under the Reportable Conduct Scheme | The subject of allegation (i.e. the person about whom the findings were made) | 28 days from the date the subject of allegation is given the notice of decision from the Commission |
| s16ZI(2) | Decision by the Commission to issue a notice to produce under s16ZG regarding the Reportable Conduct Scheme | The organisation ¹ to which the Commission issued the notice | 14 days from the date the organisation is given the notice from the Commission |
| s41I(1) | Decision by the Commission to issue a notice to produce under s 30 regarding the Child Safe Standards | The organisation or person to which the Commission issued the notice | 14 days from the date the organisation or person is given the notice from the Commission |

¹ This information sheet uses the term organisation to refer to an entity or body, including a 'relevant entity' as defined in the CWS Act.



| Section | Type of reviewable decision | Who may seek review | Deadline to lodge application |
|----------------|---|---|--|
| s41I(1) | Decision by the Commission to issue a notice to comply under s 31 regarding the Child Safe Standards | The organisation to which the Commission issued the notice | 14 days from the date the organisation is given the notice from the Commission |
| s41I(1) | Decision by the Commission to issue an official warning under s36A regarding the Child Safe Standards | The organisation or person to which the Commission issued the warning | 14 days from the date the organisation or person is given the warning from the Commission |
| s41I(1) | Decision by the Commission to publish information under s36I regarding non-compliance with the Child Safe Standards | The subject of publishing (i.e. the non-compliant organisation) | 14 days from the date the organisation is informed of the Commission's decision to publish information |

Note: *In exceptional circumstances the Commission may accept applications out of time. Timeframes are calculated by calendar days. For example, 14 days from Monday 1st of June is Monday 15th June.*

An organisation or person who has been served a Child Safe Standards infringement notice under section 36B under the CWS Act can also apply for review of the Commission's decision to issue the infringement notice. A separate internal review process under the *Infringements Act 2006* applies to infringement notice decisions. You can contact the Commission for further information.

Only those stated above can apply for internal review of the Commission's decision.

The following are examples of decisions where internal review by the Commission is not available:

- findings made by the head of an organisation after their investigation into a reportable allegation concerning an employee under the Reportable Conduct Scheme
- a decision by the Commission to commence an own motion investigation under the Reportable Conduct Scheme
- a decision by the Commission to request a regulator to provide information or documents to the Commission under the Reportable Conduct Scheme
- a decision by the Commission to notify the Secretary to the Department of Government Services of a substantiated finding of reportable conduct for the purposes of a Working with Children Check
- actions or decisions of the Commission under the Child Safe Standards which are not listed in the table above, including a decision by the Commission to request information or documents.

You are welcome to discuss your options with the Commission if internal review of a decision by the Commission is not available.

How to apply for review

An application for review can be made by filling out the [Application for Internal Review Form](#), which can be [downloaded from here](#).

If you have questions about filling out the form, or need assistance to make your application, please contact the Commission.

Completed application forms should be lodged within the timeframes listed above by emailing the Commission at this address: contact@ccyp.vic.gov.au.

The Commission will accept applications out of time in exceptional circumstances only. If you wish to make an application for review out of time, you should provide written reasons in the space provided on the Application for Internal Review Form. If you think you may struggle to meet any deadlines, you should contact the Commission to discuss before the deadline expires.

You may choose to be assisted by a legal representative or support person during the internal review process. However, you are not required to have legal representation, as the internal review process is designed to be simple, accessible, fair and inexpensive.

Receipt of application for review

The Commission will acknowledge receipt of your application.

We will assess your application to confirm that it is valid by checking that it relates to a type of decision that can be reviewed, is made by a person who may seek review, and is within time.

We will then advise you of:

- information about the internal review process and expected timelines
- information about how to provide any further evidence or written submissions
- access and assistance arrangements if you requested support.

The internal review process

The Commission's internal review process is summarised below. More details will be provided to Applicants once their application is received by the Commission:

1. Appointment of internal reviewer

The person conducting the review will be someone in the Commission who did not make the original decision.

2. Opportunity to provide further evidence or written submissions

An internal review is a 'merits review' process. This means that the person conducting the review will re-make the decision. They will make what they consider to be the correct decision.

They will look at what was provided, and what happened, in the original decision-making process. They will also consider any new or additional relevant evidence, information or submissions you would like to provide. You can explain why you think the original decision was not correct, and what decision you think is the correct decision.

In some circumstances, you may be able to meet with the Commission to explain why you think the original decision should be changed. The Commission will consider any request made, but a meeting is not always possible.

The Commission will advise you of the date when you need to provide any new evidence, information and submissions. You will need to make sure any new material provided to the Commission is clear and legible.

The Commission may contact you to ask questions or seek clarification of any matters before the person conducting the review makes their decision.

3. Making the internal review decision

After considering all relevant materials and any submissions made by the Applicant, the person conducting the review will make one of the following decisions:

- confirm the original decision
- confirm the original decision, but change the reasons for that decision, or
- make a different decision.

The Commission will notify you of the internal review decision.

What happens if I am unhappy with the decision of the internal reviewer

Some, but not all, decisions made by the Commission's internal reviewers can be further reviewed by the Victorian Civil and Administrative Tribunal (VCAT).

The CWS Act requires that you must have first completed the Commission's internal review process before you apply to VCAT for review.

If you are not satisfied with the Commission's internal review decision, the following can be further reviewed by VCAT:

| Section | Type of reviewable decision | Who may seek review | Deadline to lodge application with VCAT |
|--------------|---|--|---|
| s16ZJ | Finding made by the Commission that an employee has committed reportable conduct under the Reportable Conduct Scheme | The subject of allegation (i.e.: the person about whom the findings were made) | 28 days |
| s41J | Decision made by the Commission to issue a notice to comply under the Child Safe Standards | The organisation to which the notice was issued | 28 days |
| s41J | Decision made by the Commission to publish information under s 36I regarding non-compliance with the Child Safe Standards | The subject of publishing (i.e. the non-compliant organisation) | 28 days |

The 28-day period for making an application for review by VCAT starts from the later of:

- the date of the internal review decision, or
- the date on which a statement of reasons is given under the *Victorian Civil and Administrative Tribunal Act 1998* (if reasons have not been provided with the internal review decision and are requested by the Applicant) or the date the Commission advises that a statement of reasons will not be given.

There is no option to seek review at VCAT of an internal review decision made in relation to a notice to produce or official warning under the Child Safe Standards or the Reportable Conduct Scheme.

For further information on seeking an external review at VCAT, the contact details are:

VCAT (Review and Regulation List)
55 King St
Melbourne Vic 3000
03 9628 9755 or 1300 018 228
www.vcat.vic.gov.au

Where to get help

For further information about the Reportable Conduct Scheme, the Child Safe Standards, to talk through issues of concern, or to make a notification:



Telephone us on: 1300 782 978



Email us at: contact@ccyp.vic.gov.au



Visit the Commission's website: www.ccyp.vic.gov.au

If you need an interpreter, please call the Translating and Interpreting Service on 13 14 50 and ask them to contact the Commission for Children and Young People on 1300 782 978.

National Relay Service (NRS)

If you are d/Deaf, hard of hearing, or have a speech/communication difficulty please contact us by:

step 1 - contacting the NRS through your preferred NRS call channel detailed on [NRS call numbers and links](#)

step 2 - provide the NRS with the Commission for Children and Young People's number 1300 782 978.

For more information visit: [About the National Relay Service](#)

For help in an emergency call police on 000.

Support services

Lifeline on 13 11 14, 1800 Respect on 1800 737 732, the Blue Knot Foundation on 1300 657 380 (9-5 AEST Mon-Sun) and Beyond Blue on 1300 224 636.

Further information about support services is also available on the [Commission for Children and Young People's website](#).