

Quick Facts – How to make an appeal

Factsheet Number: 9/2024

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Appeals about misconduct, underperformance and other matters

1. ACT Public Service (ACTPS) Enterprise Agreements establish an Appeals Mechanism for employees who are not satisfied with the outcome of a decision that affects them.
2. The Appeal Mechanism applies to:
 - a. decisions to suspend the employee without pay;
 - b. decisions relating to findings of misconduct, provided that such an appeal can only be made after a decision about disciplinary action has been made;
 - c. decisions to take disciplinary action, except a decision to terminate the employee's employment;
 - d. decisions to take underperformance action, except a decision to terminate the employee's employment;
 - e. decisions taken in relation to an employee's eligibility for benefits and the amount of such benefits, the amount payable by way of income maintenance and the giving of a notice of involuntary redundancy under clause L9; and
 - f. any other decision that is subject to appeal under the PSM Act.

How to seek an appeal

3. To initiate an appeal under the Enterprise Agreements, an application must be made to the Convenor of Appeals within 14 calendar days of being notified, or the appellant becoming aware of the decision to take action.
4. The application must contain all of the following:
 - a. is in writing; and
 - b. states what part of the process is being appealed i.e., the misconduct finding only, the sanction only or both;
 - c. describes the decision or action taken or to be taken, the reasons for the application and the outcome sought; and
 - d. is received by the Convenor of Appeals within 14 days of being notified, or the appellant becoming aware, of the decision to take the action; and
 - e. seeks to appeal an appellable decision.

5. Applications must be submitted in writing via email or post:

Email: ACTPS_Appeals@act.gov.au

Post: The Convenor of Appeals
WHoG Industrial Relations and Public Sector Employment
Chief Minister, Treasury and Economic Development Directorate
GPO Box 158
CANBERRA CITY ACT 2601

Next Steps

6. If the application satisfies the provisions under the Appeals Mechanism, the Convenor of Appeals will select a person from the approved list of independent appeal members to conduct a single member determinative appeal.
7. The Appeals Coordinator will advise the appellant if their appeal has been accepted and next steps or declined due to not satisfying the provisions under the Appeals Mechanism.
8. All relevant information and evidence that was available to the decision-maker in the making of the original decision or in taking the original action must be provided to the Convenor of Appeals.
9. If the appeal has been accepted, the Convenor of Appeals will invite the appellant to have a support person present at any meetings held between the independent appeal member and the appellant.

Appeals of certain recruitment decisions

10. The recruitment appeal mechanism applies to:
 - a. decisions about promotion or temporary transfer to a higher office or role (for periods in excess of 6 months) affecting the officer where the officer was an applicant for the position (except decisions made on the unanimous recommendation of a joint selection committee); and
 - b. decisions to promote an officer after acting for a period of 12 months or more in a position at or below Administrative Services Officer Class 6 (or equivalent classification).
11. Recruitment appeals may only be made in relation to promotions or temporary transfers to a higher office or role where the maximum pay is less than that of a classification equivalent to a Senior Office Grade C (or unless otherwise specified in the Public Sector Management Act 1994).
12. For positions that are not eligible for appeal, an application for a process review in accordance with K3 of the 2023-2026 Enterprise Agreements may be made.
13. The only ground on which the independent appeal member may review the recruitment decision is that the officer making the appeal would be **more efficient** in performing the duties of the person promoted or selected for temporary transfer.

How to seek an appeal

14. The application of appeal must:
 - a. be in writing
 - b. be received by the Convenor of Appeals within 14 calendar days of the decision to take action being notified in the Gazette. For decisions that are not notified in the gazette, the application must be received by the Convenor within 14 calendar days of the applicant being notified or becoming aware of the outcome of the process.
 - c. seek to appeal an appellable decision.
15. Applications must be submitted in writing via email or post:

Email: ACTPS_Appeals@act.gov.au

Post: The Convenor of Appeals
WHoG Industrial Relations and Public Sector Employment
Chief Minister, Treasury and Economic Development Directorate
GPO Box 158
CANBERRA CITY ACT 2601

Next Steps

16. If the application satisfies the provisions under the Appeals Mechanism, the Convenor of Appeals will select a person from the approved list of independent appeal members to conduct a single member determinative appeal.
17. The Appeals Coordinator will advise the appellant if their appeal has been accepted and next steps or declined due to not satisfying the provisions under the Appeals Mechanism.
18. If the appeal has been accepted, the Convenor of Appeals will invite the appellant to have a support person present at any meetings held between the independent appeal member and the appellant.

Further Information

19. For further information contact your directorate Human Resources team in the first instance or contact the Appeals Coordinator via email at ACTPS_Appeals@act.gov.au or on (02) 6207 4847.