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A. BACKGROUND

1. The Police Registration and Services Board (“the Board”) conducts reviews of decisions listed in section 146 of the Victoria Police Act 2013 (“the Act”) in accordance with Part 8. This **Practice Note** and the attached **Model Directions** are made by the President under section 156A of the Act and:
 - Provide information about the process and timeframes for conducting reviews;
 - Ensure reviews are dealt with expeditiously, efficiently and fairly; and
 - Provide participants with certainty about when the review will be heard.
2. These model directions provide for:
 - A **standard hearing date** of approximately eight weeks after the Application was lodged, with dates for submissions and other documents scheduled accordingly; and
 - A ‘fast track’ hearing date approximately six weeks after the Application was lodged, for less complex matters (e.g. where facts are mostly not disputed).

B. GENERAL MATTERS

- Where the Directions refer to “lodging and serving” a document, the document should be provided as specified in the directions below to the Board and the other party:

Lodged with the Board:

- By email to: review@prsb.vic.gov.au
- By post or hand delivery to: Level 6, 155 Queen Street Melbourne 3000

Served on the other party, being relevantly to:

- The Applicant: to the email or physical address, marked to the attention of the contact person, as specified in the Application;
- To the Chief Commissioner:
 - For a Review of a **Disciplinary decision**: Discipline Advisory Unit
at: DISCIPLINEADVISORYUNIT-PSC-OIC@police.vic.gov.au
 - For a Review of a **Non-disciplinary Directed Transfer or Compulsory Transfer decision**:
Officer of the Director Health, Safety & Deployment at: HRD-HEALTHSAFETY@police.vic.gov.au
 - For a Review of an **Incapacity decision**: care of the Mobility and Redeployment Branch at
MOBILITY&REDEPLOYMENT-MGR@police.vic.gov.au

C. MAKING AN APPLICATION FOR REVIEW

- An **Application** for review of a decision specified in section 146 must be made using the relevant Form approved by the Board (as published on the [Board’s website](#)). There are different application forms for different types of reviews. The Form must attach the documents and provide the information specified in the Form (section 147(1) of the Act).
- The Application** must be lodged within the time limits specified in section 147, being:
 - In the case of a directed transfer: within 3 days after the day on which the police officer or protective services officer was notified of the decision; or
 - In any other case: within 14 days of the day on which the police officer or protective services officer is notified of the decision.
- An Applicant seeking an **extension of time to lodge an application** must lodge a request in writing with the Board, outlining the exceptional circumstances that apply and providing supporting information. (See requirements of section 164: Extension of Time).

D. DIRECTIONS

- Within one week of the Application being lodged, the Board will give written **Directions** setting out the dates by which documents must be lodged and served and will set the **hearing date** after consultation with the parties’ representatives. The Directions will generally follow the attached **Model Directions** (for either a standard or fast-track review) but variations may be made. In the case of reviews which follow a decision taken under subsection 70(2) of the Act (incapacity), the Board will usually conduct a conference with the Parties before issuing Directions.
- Parties are required to comply with the Directions. Any **request to vary the directions** or to seek an extension of time for any step must include reasons and must be served on the other Party and lodged with the Board. The Board is required to ensure reviews are dealt with quickly. Extensions of time or delays in listing matters for hearing will only be permitted where there are compelling reasons.
- All communications to the Board concerning the conduct of a review (including submissions, the lodgment of additional documents or materials and communications relating to process or timelines) must be copied to the other party.

E. SUBMISSIONS

10. Submissions should be set out in numbered paragraphs and use sub-headings.

11. The **Applicant's Submission** should:

- Specify which of the Inquiry Officer's **findings of fact** are accepted or not accepted.
- If a finding of fact is not accepted, the Submission should set out the arguments why the finding should be rejected and what alternative finding should be made by the Board and the reasons why.
- Indicate whether the Applicant contends the Board should make an adverse finding about any **witness' credibility or reliability**. It may be necessary to provide an opportunity for that person to respond. A summons to witness is likely to be issued (section 160).
- Where the Applicant seeks to argue that his or her dismissal has resulted in adverse social, family, career or financial impacts, relevant evidence is required to be presented to establish such impacts. This may be in the form of a statutory declaration, sworn evidence or the provision of relevant documents. If it is sought to be argued that the Applicant is suffering financial hardship, the Applicant is required to disclose fully all matters relevant to the Board's considerations, including sources and amounts of personal and family income, assets and liabilities.
- If the Applicant is seeking reinstatement to Victoria Police, the Applicant is required to disclose to the Board any factor which may be argued to be an impediment to the performance of his or her duties (for example, medical assessments of work capacity) and any other matter concerning fitness, suitability or availability to work.
- Set out any other matter the Applicant contends.

For example, why the dismissal was 'harsh, unjust or unreasonable', the public interest; the interests of the Applicant and other considerations said to apply, the basis on which it is argued that findings of fact were not properly reached by the Inquiry Officer, alternative orders that should be made (see further below), the Applicant's character, work performance and previous conduct, parity with other decisions etc.

12. The Chief Commissioner's submission should respond to the submission of the Applicant and include any other matter the Chief Commissioner contends.

For example, why the dismissal was not 'harsh, unjust or unreasonable', the public interest and other considerations said to apply (including the integrity of and community confidence in Victoria Police), the harm caused by the conduct (to individuals and Victoria Police), the basis on which it is argued that findings of fact were properly reached by the Inquiry Officer, previous probity and conduct issues and their relevance etc.

13. Submissions should not attach copies of documents already part of the **Review Book**, but should include references (including page or paragraph numbers). Any new documents sought to be relied upon should be attached to the submission. Copies of published court or Board decisions need not be attached.

F. SUBMISSIONS ON ORDERS: IF DISMISSAL FOUND TO BE HARSH, UNJUST OR UNREASONABLE

14. If the Board finds that a dismissal or termination (or demotion or transfer decision set out in section 153(1)) was harsh, unjust or unreasonable, then the Board may make one of the alternative decisions specified in section 152 or 153. Parties' submissions should address the question of the alternative orders the party contends the Board should make and why, for example:

- Whether reinstatement is 'impracticable' (section 152(3)(b)(iv)) and if so, the amount of any compensation that should be ordered under section 152(5) (including by supplying relevant evidence and calculations);
- The alternative order the Board should make, having regard to the public interest, the interests of the Applicant and other relevant factors (including but not limited to: the need for deterrence, the interests of Victoria Police, welfare or safety issues, need for guidance, training or support, the appropriateness of the Applicant holding a supervisory role or any other relevant matter).

15. Parties may address this issue in their written submissions as outlined in part E above and during the hearing of the review. Alternatively, a party may defer the making of such submissions until after the Board has provided reasons

for its decision on whether the dismissal (or other decision) was ‘harsh, unjust or unreasonable’. The Board will confirm this preference in the hearing. In relevant reviews, the Board will make its initial finding on whether the dismissal was ‘harsh, unjust or unreasonable’ and then,

- Direct the parties to make further submissions (usually within 7 days) on the question of the orders to be made under section 152 or 153; and
- List the matter for a further hearing on orders as soon as possible and may use alternative dispute resolution techniques in informing itself on the relevant issues relating to the form of order to be made.

G. REVIEW BOOK INDEX

16. To reduce unnecessary copying, the parties will work cooperatively to prepare an agreed **Review Book Index** listing all the documents before the Inquiry Officer and lodged with the Board. The parties should contact the Board’s Secretary if assistance is required to finalise the Index.
17. The finalised **Index** and **Review Book** will be lodged by the Chief Commissioner as set out in the Directions.

H. PUBLICATION AND OPEN HEARING ISSUES

18. It is important that issues concerning section 157 (*hearings to be in public*) or section 154A (*to not publish or exclude information from reasons*) are raised as soon as possible. The Application form requires the Applicant to indicate whether such issues arise.
19. If the Applicant, the Chief Commissioner or other affected person seeks an order to conduct a hearing in private or exclude information (including information identifying the Applicant) from the reasons for decision, he or she will be required in the Board’s directions to lodge and serve any such a request by the date specified (usually a date 2 weeks before the hearing date), specifying the order or approach sought, the public interest or other grounds relied upon and relevant evidentiary material to support the request.¹
20. The Chief Commissioner’s submission should address the **interests of witnesses**² (internal or external to Victoria Police) and provide information to the Board:
 - On consultation with relevant witness(es) on the issues of publication of the decision or open hearing and whether any concerns have been expressed by those witnesses;
 - On relevant issues concerning the *Protected Disclosure Act 2012*; and
 - Concerning any harm caused to the witness by the breach of discipline.

Note: The Applicant may respond to any new information which was not before the Inquiry Officer.

I. PROCEDURE FOR PUBLICATION OF REASONS FOR DECISION

21. To provide time for the making of welfare arrangements for people affected by the decision (including the Applicant and witnesses), the Board:
 - Will provide 24 hours’ notice to the parties’ representatives (by email or phone) of the time and date the decision will be given; and
 - Will not publish the decision the Board’s website until a date three working days after the date on which the decision was provided to the Parties.

1. See decision in ABC, A72/2015 which discussed the kinds of information required to be provided to satisfy the tribunal that such an order is in the public interest: <http://www.prsb.vic.gov.au/reviews-and-appeals/reviews/review-decisions/review-decision-a722015-decision-publication>

2. Note also the amendments made to section 154A and section 157 by the Police and Justice Legislation Amendment Act 2016.

Attachment 1: Model Directions and Steps - Standard Reviews

Note: The DAU has agreed to provide transcripts of all discipline inquiries that result in a dismissal to the dismissed officer's representative as soon as is practicable

	DATE	STEP	PARTY
T	Application lodged	The Application will be lodged on the prescribed form together with the reasons for decision and a copy is to be served on the DAU.	Applicant
T+1	Within one week after the Application was lodged	The Board will issue Directions in the matter including a date for hearing and specific due dates for the submissions and applications (as below)	Board
T+3	Three weeks after the Application was lodged	The Applicant will lodge and serve: <ul style="list-style-type: none"> • His or her written submissions; • Any documents referred to in the Submission or to be relied on in the Review which were not before the Inquiry Officer. 	Applicant
T+4	Four weeks after the Application was lodged	The Chief Commissioner (after consulting with the Applicant's representative) will lodge and serve: <ul style="list-style-type: none"> • The Review Book Index; and Lodge with the Board: <ul style="list-style-type: none"> • 1 set (Review Book parts 1 to 6) • 1 set (Review Book parts 7 to 9) 	DAU
T+5	Five weeks after the Application was lodged	Any party seeking an order or decision below be made must lodge and serve the request (including reasons) and material in support of the request: <ul style="list-style-type: none"> • Order under section 157 (Hearings to be in public); and/or • Section 154A (to not publish reasons, exclude information) 	DAU and Applicant
T+6	Six weeks after the Application was lodged	The Chief Commissioner will lodge and serve: <ul style="list-style-type: none"> • His or her written submissions; and • Any documents referred to in the Submission which were not before the Inquiry Officer. 	DAU
T+6	Between Six and Seven weeks after the Application was lodged	After reviewing the filed materials, the Board may: <ul style="list-style-type: none"> • Provide written directions seeking additional oral submissions or further material on matters in contention; • Convene a pre-hearing conference of the parties (in person or by teleconference) to discuss any procedural issue; and • Publish a notice of listing on its website. 	Board and parties
T+8	Eight weeks after the Application was lodged	Review Hearing	All

Attachment 2: Model Directions and Steps - Fast-track Reviews

Note: The DAU has agreed to provide transcripts of all discipline inquiries that result in a dismissal to the dismissed officer's representative as soon as is practicable

	DATE	STEP	PARTY
T	Application lodged	The Application will be lodged on the prescribed form together with the reasons for decision and a copy is to be served on the DAU.	Applicant
T+1	Within one week after the Application was lodged	The Board will issue Directions in the matter including a date for hearing and specific due dates for the submissions and applications (as below)	Board
T+2	Two weeks after the Application was lodged	The Applicant will lodge and serve: <ul style="list-style-type: none"> • His or her written submissions; and • Any documents referred to in the Submission or to be relied on in the Review which were not before the Inquiry Officer. 	Applicant
T+3	Three weeks after the Application was lodged	The Chief Commissioner (after consulting with the Applicant's representative) will lodge and serve: <ul style="list-style-type: none"> • The Review Book Index; and Lodge with the Board: <ul style="list-style-type: none"> • 1 set (Review Book parts 1 to 6) • 1 set (Review Book parts 7 to 9) 	DAU
		Any party seeking an order or decision below be made must lodge and serve the request (including reasons) and material in support of the request: <ul style="list-style-type: none"> • Order under section 157 (Hearings to be in public); and/or • Section 154A (to not publish reasons, exclude information) 	DAU and Applicant
T+4	Four weeks after the Application was lodged	The Chief Commissioner will lodge and serve: <ul style="list-style-type: none"> • His or her written submissions; and • Any documents referred to in the Submission which were not before the Inquiry Officer. 	DAU
T+5	Five weeks after the Application was lodged	After reviewing the filed materials, the Board may: <ul style="list-style-type: none"> • Provide written directions seeking additional oral submissions or further material on matters in contention; • Convene a pre-hearing conference of the parties (in person or by teleconference) to discuss any procedural issue; and • Publish a notice of listing on its website. 	Board and parties
T+6	Six weeks after the Application was lodged	Review Hearing	All