

**INTERNAL REVIEW****REASONS FOR DECISION**

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**1. Purpose**

The purpose of this principle is to provide guidance for an Internal Review Officer (“IRO”) when producing written reasons explaining the outcome on a review application.

This Guidance Principle should be read in conjunction with other Guidance Principles relating to Internal Review, including:

- IRU Guidance Principle 01 “Considering and deciding Internal Review Applications”
- IRU Guidance Principle 02- “Late applications” (Dealing with Applications made more than 14 days after the decision came to the notice of the person seeking review) and
- IRU Guidance Principle 03 -“Requests for stay of the operation of notices pending review outcome”
- IRU Guidance Principle 04 -“Deciding whether to extend the compliance date on an Improvement Notice”

**2. Background**

Section 128 of the *Occupational Health and Safety Act 2004* (“the Act”)<sup>1</sup> requires the Authority to give a written notice setting out the decision on an internal review. The legislation also specifies a number of mandatory criteria which must be set out in the notice, including findings on material questions of fact that led to the decision, along with reference to the evidence or other material on which those findings were based.

**3. Policy**

The written notice (“reasons for decision”) represents the formal outcome of a review, and should give readers a clear understanding of the relevant issues and processes which led to the decision. Whilst each decision will reflect the subject matter of the review, the Authority as part of its commitment to being a consistent, accountable and transparent decision maker, seeks to provide some practical guidance as to the form of the reasons for decision.

In addition to providing an applicant with reasons for decision, the Internal Review Unit also provides a copy of the reasons to relevant staff within the Authority. This includes the inspector who made the decision under review, and his/her line and program managers. It also provides a copy to the operational support area to ensure learnings from reviews are shared within the Authority to promote continuous improvement in decision making, and where necessary to allow procedures and policies are updated or reinforced. This reflects the expectation that internal review also contributes in a broader sense to consistency and high quality decision making.

**4. Content and Structure of Reasons for Decision**

Reasons for decision should be written in plain English and in a form that enables a reader to clearly understand the decision, its impact and the reasoning process leading to the decision.

A basic “template” has been designed for use where possible to assist with consistency. Whilst the actual content of individual written decisions will vary depending on the complexity and the issues involved, they should be logically structured and include the following general information:

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<sup>1</sup>See also similar provisions in the *Dangerous Goods Act 1985* (section 20A) and the *Equipment (Public Safety) Act 1994* (section 24A)

## INTERNAL REVIEW

### REASONS FOR DECISION

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- A clear and unambiguous statement of the decision and its impact
- A brief description of the decision under review.
- A brief history of the context in which that decision was made.
- A summary of the application, including the identity of the applicant and the category of “eligible person” into which the applicant falls,
- Details of any grounds relied on by the applicant.
- Information and material considered by the IRO in the review.
- Findings of material fact and the information on which those findings are based.
- Details of relevant law or statutory provisions
- The identity of the IRO who made the review decision and
- The date of the decision.

As the decision is made by an authorised IRO on behalf of the Authority, the IRO who determined the review will usually sign the decision on behalf of the Authority.

A copy of the reasons for decision will be sent to the applicant by mail, or (where the applicant has elected or agreed), by email or fax. Correspondence accompanying the decision will also set out the right of an eligible person to seek external review of the decision by the Victorian Civil and Administrative Tribunal (“VCAT”).