



Appeals on a decision made by the Department – frequently asked questions

What is the Department's role in relation to training contracts?

The Department of Training and Workforce Development Apprenticeship Office registers, administers and regulates Western Australian training contracts, consistent with Part 7 of the *Vocational Education and Training Act 1996* (The Act) and the *Vocational Education and Training (General) Regulations 2009*.

Can a decision made by the Department be appealed?

Yes. A party to the training contract who is dissatisfied by a decision made in relation to the contract by the chief executive under the following provisions may appeal against it:

- Regulation 39 – Extension to the probation period of a training contract
- Regulation 46 – Variation of a training contract by parties
- Regulation 47 – Assignment of training contract to another employer
- Regulation 48 – Suspension of training contract by parties
- Regulation 52A – Resolution of disputes by chief executive
- Section 60(G)4 – Chief executive's decision in relation to an employer application to terminate a training contract
- Section 60(F)3 – The chief executive refuses to register a training contract

Who is the appeal made to?

The appeal is made to the Western Australian Industrial Relations Commission (the Commission).

What is the timeframe within which an appeal must be made?

An appeal must be lodged with the Commission within 14 days from the date of the decision made by the Department.

What is the appeal process?

The Act provides that on an appeal made against a decision, the Commission must rehear the matter and may confirm the decision or set it aside and either substitute a decision the chief executive has made or order the chief executive to decide the matter again.

The Commission does not decide whether it is satisfied with the argument made by the Department in each case rather, the Commission will determine whether the Department erred in coming to its conclusion on the basis of the facts presented.

How long does an appeal process take?

There is no pre-determined timeline for an appeal. In the interests of procedural fairness and natural justice, parties are given an opportunity to present submissions and provide responses. There may be multiple factors that may affect the time an appeal process can take. For further information please contact the Commission.

Are parties allowed to have legal representation at an appeal process?

Yes. Although it is not a requirement of the Commission, parties may have legal representation during an appeal process. The Department always recommends that parties seek their own independent legal advice.

Is the matter of an unfair dismissal dealt with as part of the appeal process?

No. Unfair dismissal cases are a separate matter and are dealt with by the Fair Work Commission. This process is an administrative appeal against a decision made by the Department in relation to the training contract, not an unfair dismissal claim against an employer.

For further information on the appeals process, please visit the Commission's website at wairc.wa.gov.au

Apprenticeship Office

T: 13 19 54

E: apprenticeshipoffice@dtwd.wa.gov.au

W: dtwd.wa.gov.au/apprenticeshipoffice