

# Application for an Independent Review of an Agent decision



## The Workers Compensation Independent Review Service

We understand that sometimes decisions might not seem right. To assist you in these situations, WorkSafe Victoria has established an independent service for workers that can review certain Agent decisions made under the *Workplace Injury Rehabilitation and Compensation Act 2013* or the *Accident Compensation Act 1985* (compensation legislation).

The Workers Compensation Independent Review Service (WCIRS) is a free service and is available when you want us to review a decision that an Agent has made that doesn't seem right to you.

We can review most Agent's decisions **within 6 months of when you became aware of the decision** once the conciliation process at the Workplace Injury Commission has finished and **within 30 days** after the conciliation officer issues a Genuine Dispute Outcome Certificate.

## Before you start

Please read the included fact sheet before filling out and lodging this form. It provides further information about which decisions are reviewable, when and how you can seek a review and the requirements for submitting an independent review application. You can also visit [worksafe.vic.gov.au/WCIRS](https://worksafe.vic.gov.au/WCIRS) for more information.

## Filling in and lodging this form

We will only ask you for information that we need for the review. Although we have access to your compensation claim information, this form will ask you for some of that information to verify your identity and to help us understand which decision you would like reviewed.

Once you have filled in this form, you can send it in to us:

**By email to:** [WCIRS@worksafe.vic.gov.au](mailto:WCIRS@worksafe.vic.gov.au)

**By post to:** Workers Compensation Independent Review Service  
WorkSafe Victoria  
PO Box 279  
Geelong VIC 3220.

If you prefer, you can also lodge this form using our **online portal** by visiting [worksafe.vic.gov.au/WCIRS](https://worksafe.vic.gov.au/WCIRS)

If you need help completing this form, please call us on **(03) 4243 7061**. Our friendly staff can assist you to fill in the form and send it to you by e-mail or post to review, sign and return to us. If you require a translator, please let them know when they answer and they will be happy to assist.

## Section A: Tell us about you

To verify your identity and understand how you would like us to communicate with you during the review, we need you to answer the following questions.

(QUESTIONS MARKED WITH A '\*' MUST BE ANSWERED)

### 1. Your full name\*

### 2. Your date of birth\*

### 3. What is your preferred communication method when we need to write to you?\*

(CHOOSE ONE OPTION ONLY)

☐ By e-mail to:

☐ By mail/post to:

### 4. What is your contact telephone number?\*

### 5. Do you have any special circumstances or requirements that will make it easier for us to communicate with you?

☐ Hearing related

☐ Vision related

☐ My preferred language is   
and I require an interpreter

☐ I have the following special circumstance or requirement (please specify below)

**You can nominate a person or representative to act on your behalf during this review or to receive copies of information we provide to you. If someone has agreed to be your representative, please complete section B of this form.**

## Section B: Nominating a person or representative (optional)

If someone has agreed to be your representative in this review or you would like them to receive information we send to you, please complete this section.

(IF YOU ARE COMPLETING THIS SECTION, QUESTIONS MARKED WITH A '\*' MUST BE ANSWERED)

### 6. Person or Representative's Name\*

### 7. Person or Representative's relationship to you\*

☐ WorkCover Assist

☐ Union Assist

☐ Union Representative

☐ Legal Practitioner (Lawyer)

☐ Other person or organisation (please specify):

### 8. How would you like us to communicate with your nominated person or representative when we need to in writing?\*

(CHOOSE ONE OPTION ONLY)

☐ By e-mail to:

☐ By mail/post to:

### 9. What is your nominated person or representative's contact telephone number?\*

### 10. How would you like us to involve your nominated person or representative?\*

(CHOOSE ONE OPTION ONLY)

☐ Please communicate with and request information from me directly and send written correspondence to my nominated person/representative; or

☐ Please communicate with my nominated person/representative directly and send all requests for information to them.

**Any changes to the nominated person or representative or how you would like us to involve them must be made in writing after this application form is lodged.**

## Section C: Tell about the decision/s you want us to review

This section allows you to tell us why you think a decision does not seem right. We want to understand your point of view and by answering the following you can share how you feel and what you believe we need to know.

(WE NEED YOU TO ANSWER QUESTIONS MARKED WITH A **\***)

### 11. Please provide details about the decision(s) you would like us to review.\*

(IF YOU ARE SEEKING REVIEW OF MORE THAN 2 DECISIONS, PLEASE PROVIDE DETAILS ON ANOTHER PAGE AND ATTACH TO THIS APPLICATION)

#### a. Decision 1

Claim Number*	
Date of Agent Decision*	
Type of Decision*	
Date of Genuine Dispute Outcome Certificate (or Genuine Dispute Court finding)*	
Have you started court or arbitration proceedings for this decision?*	
If yes, please provide the court or arbitration case number	

#### b. Decision 2

Claim Number*	
Date of Agent Decision*	
Type of Decision*	
Date of Genuine Dispute Outcome Certificate (or Genuine Dispute Court finding)*	
Have you started court or arbitration proceedings for this decision?*	
If yes, please provide the court or arbitration case number	

### 12. Please provide details of any exceptional circumstances for a late application for review.\*

Has it been more than 6 months since you became aware of the Agent decision(s)?\*

☐ Yes ☐ No

Has it been more than 30 days since the date of the Genuine Dispute Certificate(s)?\*

☐ Yes ☐ No

If 'yes' to either of the questions, please explain if there are any exceptional circumstances that prevented you from applying to review the decision(s) earlier. See the attached fact sheet for further information.

(IF YOU NEED MORE SPACE, YOU CAN CONTINUE YOUR RESPONSE ON ANOTHER PAGE AND ATTACH IT TO THIS APPLICATION)

### 13. Please tell us why the decision(s) don't seem right?

(IF YOU NEED MORE SPACE, YOU CAN CONTINUE YOUR RESPONSE ON ANOTHER PAGE AND ATTACH IT TO THIS APPLICATION)

**Note:** We will have access to information held by the Agent.

### 14. Please list any attachments you are including with your application form

1.	
2.	
3.	
4.	

**Note:** We will have access to information held by the Agent.

## Section D: Declaration and lodgement

By signing and lodging this application form –

- I declare that the information on this form is true and correct to the best of my knowledge and belief.
- I understand that it is an offence to give false or misleading information under the *Workplace Injury Rehabilitation and Compensation Act 2013* or/and the *Accident Compensation Act 1985*.
- I understand that any information provided to the Workers' Compensation Independent Review Service as part of the application process may be provided to the Agent to consider.
- I understand that, unless I notify any changes in writing to [wcirs@worksafe.vic.gov.au](mailto:wcirs@worksafe.vic.gov.au), where I have nominated a person or representative, the Workers' Compensation Independent Review Service will engage with them in the way I have indicated in Section B of this application.

**Worker's signature**

**Worker's printed full name**

**Date of signature**

## What we can and can't review

The Workers Compensation Independent Review Service (WCIRS) can review certain decisions made by an Agent (or WorkSafe).

Decisions we can review are called a 'reviewable decision' and include:

- **not accepting a worker's claim**, including a decision not to accept liability for an injury, condition or disease;
- **weekly payments**, including a decision –
  - to stop, suspend or refuse to pay weekly payments;
  - about the calculation of weekly payments; or
  - about whether a worker has or does not have a current work capacity; and
- **a medical and like (similar) service.**

We cannot review a decision:

- to stop paying weekly payments because a worker's impairment is not 21% or more;
- to stop paying weekly payments because WorkSafe considers that payments were obtained fraudulently;
- about a worker's impairment benefits, including a decision about liability for an injury or percentage of impairment;
- about the death of a worker or their dependent(s);
- disputed in court or arbitration if there is a final hearing date or referred for a Medical Panel opinion;
- about a rejected claim because the claimant is not a 'worker' under the compensation legislation;
- to reject a claim because the claimed employer is not the correct employer of the worker;
- where there has been a final Medical Panel decision;
- if a dispute about the decision has been settled by agreement between the Agent and the worker;
- made by a self-insurer under the compensation legislation;
- about a Serious Injury or Common Law Damages application; or
- that is not otherwise listed as a reviewable decision above.

## Who can we assist?

A worker or their nominated person or representative who is 18 years or older can apply for an independent review of an Agent decision. If the worker is under 18 years of age, an independent review can be requested by a guardian or representative who is 18 years or older.

## When can we assist?

Unless there are exceptional circumstances, an independent review can only be requested:

- within 6 months of when you became aware of the reviewable decision (unless you referred a dispute to Conciliation within 6 months which remained unresolved); and
- after a 'reviewable decision' has been through a conciliation at the Workplace Injury Commission (WIN); and
- within 30 days of:
  - a Conciliation Officer issuing a Genuine Dispute Outcome Certificate about the decision; or
  - a Court revoking a direction by a Conciliation Officer to an Agent and finding there is a Genuine Dispute about the decision; and
- before a Court or Arbitration scheduling a final hearing date for review of the decision or referring a question about the decision to a Medical Panel.

## What are 'exceptional circumstances' for a late application for review of an Agent decision?

Exceptional circumstances are circumstances which are out of the ordinary, unavoidable or unexpected.

Whether there are exceptional circumstances will depend on your particular circumstances.

They are circumstances that:

- were outside of your control; and
- which you could not reasonably have prevented or accommodated; and
- they must have had a significant and demonstrably negative effect on your ability to apply to WCIRS within the time limits explained above.

You can find further information about "exceptional circumstances" on our website at: [worksafe.vic.gov.au/workers-compensation-independent-review-service-wcirs](https://worksafe.vic.gov.au/workers-compensation-independent-review-service-wcirs)

## How long will the review take?

Within one business day, we will let you (or your nominated person or representative) know in writing if your application has been accepted.

An Independent Review Officer (IRO) will contact you (or your nominated person or representative) within two business days of receiving a valid application to discuss it with you (or them).

The review will be finished within:

- 21 days for a decision about provisional payments;
- 42 days for a decision about medical and like services; and
- 56 days for decisions about rejecting a claim for compensation or weekly payments.

Sometimes we may not be able to finish the review within these times but we will tell you if that is going to happen.

## What happens at the end of a review?

We will call you and/or your nominated person or representative to let you know the outcome of the review before we send it to you in writing.

When a review is finished, the IRO can:

- disagree with the Agent's decision and direct them to overturn it; or
- disagree with the Agent's decision and direct them to make another decision; or
- agree with and confirm the Agent's decision.

An Agent can also withdraw a decision during the review if they agree that the decision is wrong.

For further information about what happens when a decision is overturned or withdrawn, please visit [worksafe.vic.gov.au/WCIRS](https://worksafe.vic.gov.au/WCIRS)

## Can I withdraw my application?

Yes, you can withdraw your application at any time before a final outcome is communicated to you. Please call WCIRS on (03) 4243 7061 if you wish to withdraw your application.

## Can I still go to Court or Arbitration about a decision even if I am seeking an independent review?

Yes, but we recommended you seek independent legal advice about any time limits for disputing an Agent decision at Court or Arbitration.

Please also refer to the information under "when can we assist?" above about when you can apply for an independent review.

## Lodging your application

This application form can be lodged with WCIRS –

- **By email to:** [WCIRS@worksafe.vic.gov.au](mailto:WCIRS@worksafe.vic.gov.au)
- **By post to:** Workers Compensation  
Independent Review Service  
WorkSafe Victoria  
PO Box 279  
Geelong VIC 3220.

This application form can also be lodged –

- online at: [worksafe.vic.gov.au/WCIRS](https://worksafe.vic.gov.au/WCIRS); or
- by telephoning our helpful staff on (03) 4243 7061, who can assist you to complete this form. A team member will take down your answers to the questions and send them to you by e-mail or post for you to review, sign and return to us. If you require a translator, please let our team know when they answer and they will be happy to assist.

## More Information

Our friendly service is here to assist you. If you need some further information or assistance with lodging a request for a review, please visit [worksafe.vic.gov.au/WCIRS](https://worksafe.vic.gov.au/WCIRS) or call us on (03) 4243 7061 between 8:30am and 4:30pm, Monday to Friday.

## Collection of personal information

WorkSafe Victoria (WorkSafe) is a body corporate established under Victorian workers compensation legislation. Personal and health information collected in connection with this application will be used for the purpose of validating and assessing this application. The information may also be used for the purpose of administering and enforcing legislation administered by WorkSafe, administration and evaluation of the WorkSafe's programs generally and legal proceedings. Subject to Section 595 of the *Workplace Injury Rehabilitation and Compensation Act 2013* and other legislation administered by WorkSafe, WorkSafe may disclose such information to its contractors and agents, to other regulatory agencies, to the Accident Compensation Conciliation Service, to a court or tribunal and to any person or organisation authorised by the individual to whom it relates, or by law, to obtain it. Collection of this information is authorised by the legislation administered by WorkSafe. If you do not provide the required information, your application may not be accepted or processed. Individuals have rights of access to personal and health information WorkSafe holds about them: contact the WorkSafe Freedom of Information Officer. You can access WorkSafe's Privacy Policy at [worksafe.vic.gov.au/resources/privacy-policy](https://worksafe.vic.gov.au/resources/privacy-policy).