

Show cause process

What is the show cause process?

The show cause process is a mechanism by which the Victorian Building Authority (VBA) supervises and monitors the conduct and ability to practise of registered building practitioners (practitioner).

If, upon the completion of an investigation, the VBA forms a 'reasonable belief' that a prescribed ground(s) for taking disciplinary action against a practitioner exists under section 179(1) of the *Building Act 1993* (the Act) and it proposes to take that action, it must issue a show cause notice. Under section 182 of the Act the show cause notice must set out, among other things, the circumstances giving rise to the notice and the proposed disciplinary action to be taken.

The VBA must afford a practitioner the opportunity to provide a written or oral representation to the VBA in response to a show cause notice.

After considering any representations received, the VBA must determine whether or not grounds to take disciplinary action still exist and whether to take the proposed disciplinary action set out in the show cause notice.

I've just received a show cause notice, is this important?

A show cause notice is an important document.

The matters that the VBA deal with through the show cause process may result in disciplinary action including the suspension or cancellation of a practitioner's registration, a reprimand, direction to do or not to do something and/or a fine. Therefore, a practitioner who receives a show cause notice should ensure they carefully read and respond to the notice by the due date.

See the Show cause process practitioner guide for further information.

Why did I receive a show cause notice?

The conduct of a practitioner can come to the attention of the VBA in a number of ways. The VBA may receive a complaint from a building owner, from someone neighbouring a building site, from another member of the building industry or from a building surveyor.

Alternatively, the VBA may itself become aware of a matter during an inspection or because it has otherwise been notified (for example, by an insurer).

If the conduct of a practitioner appears to constitute grounds for taking disciplinary action, the VBA will investigate the conduct and prepare a brief of evidence (i.e. setting out the grounds for possible disciplinary action and relevant and credible evidence to support those grounds). This information will then be considered by the VBA. If the VBA forms a 'reasonable belief' there is grounds for disciplinary action to be taken against the practitioner, the VBA will issue and send a show cause notice to the practitioner.

The term 'reasonable belief' is not defined in the Act, but requires a decision maker to believe, at the time of making a decision to, for example, take action against a practitioner, that the basis for doing so is reasonable and is not based on a mere belief or assertion. It will involve the decision maker objectively taking into account all known considerations.

What is a written representation?

A written representation is a document prepared by the practitioner responding to the claims made in the show cause notice and explaining why the proposed disciplinary action against the practitioner should not be taken. It will generally include copies of an original document to support the written response provided by the practitioner.

The VBA will maintain a record of a written representation on file for any potential internal or external review at a later date, if required.

What is an oral representation?

An oral representation is a meeting between a practitioner and the authorised representative of the VBA. The purpose of the oral representation is to give the practitioner an opportunity to explain or rebut the matters set out in the show cause notice. It may involve the practitioner providing copies of any information or documents to support the oral representation made by the practitioner.

An oral representation is **not** a hearing and a decision will not be made by the VBA on the day of the oral representation.

An audio recording of an oral representation will be made by the VBA and securely kept on file for any potential internal or external review at a later date, if required. A copy of the audio recording will be given to the practitioner upon request.

What if I need more time to respond to a show cause notice?

A practitioner has 28 days in which they may make a written or oral representation to the VBA in response to a show cause notice. This is referred to as the 'show cause period'.

A practitioner may request an extension of the show cause period by contacting the VBA at discipline@vba.vic.gov.au.

The VBA will assess a request to extend a show cause period on the merits of the request, and approval is at the discretion of the VBA.

Do I have to make a written or oral representation?

Making a representation to the VBA is voluntary. Therefore it is up to the individual practitioner to

decide whether or not they make an oral or written representation.

What action should I take after receiving a show cause notice?

It is important to read the show cause notice carefully and determine if you wish to make a representation to the VBA about the show cause notice.

If a practitioner intends to make a written representation about a show cause notice within the show cause period, they should submit the written representation to the VBA by the due date specified in the show cause notice. The written representation can take the form of a letter or an email.

A practitioner should ensure that they keep copies of any documents provided to the VBA in case they need to refer to them. Original documents should not be provided to the VBA.

If a practitioner intends to make an oral representation about a show cause notice, they must complete the **Practitioner Representation Request Form** and return it to the VBA by the due date specified in the show cause notice.

What will happen if I do not make a written or oral representation?

If a practitioner does not intend to make either a written or an oral representation about the show cause notice, the VBA will make a decision as to whether grounds still exist to take disciplinary action based on information in the VBA's possession. The VBA's decision will be made within 28 days after the conclusion of the show cause period. The practitioner will be notified of the VBA's decision in writing.

Can I have legal representation?

Yes. A practitioner may seek legal assistance in preparing a written representation.

A practitioner can be accompanied by a legal representative when attending an oral representation.

Practitioners will be advised of all VBA attendees at the oral representation before it is conducted, and will be asked to nominate who, if anyone, will be attending the oral representation with them.

Key points to remember

- Receiving a show cause notice is a serious matter.
- Practitioners may make written or oral representations to the VBA in response to the show cause notice within the show cause period.
- If no representation is made within the show cause period, the VBA can make a decision based on information in its possession.

Want to know more?

Please [submit an enquiry](#) or call us on 1300 815 127.

Victorian Building Authority
733 Bourke Street Docklands VIC 3008

www.vba.vic.gov.au

How long does it take the VBA to make a final decision following a written or oral representation?

The VBA must make a decision as to whether it will take disciplinary action against a practitioner within 28 days after the conclusion of the show cause period.

Why does the VBA immediately suspend some practitioners?

In prescribed circumstances in which the VBA considers that it is in the public interest to do so, the VBA may immediately suspend a practitioner's registration under section 180A of the Act.

However, in certain circumstances the VBA must immediately suspend a practitioner's registration under section 180A of the Act.

Grounds for immediate suspension are detailed in the [Immediate Suspension of Registration Practitioner Guide](#) and [Immediate Suspension Frequently Asked Questions](#).

Can I appeal the VBA's decision?

Pursuant to section 185 of the Act, a practitioner may appeal the decision by the VBA to take disciplinary action through the VBA's internal review process.

Applications for internal review must be made in writing, stating fully the grounds for the application, within 28 days of a notice of decision being received by the practitioner.

The internal review process is independent from the show cause process. See the [Internal Review Process Practitioner Guide](#) and [Frequently Asked Questions](#) for further information.

A practitioner may apply to the Victorian Civil Administrative Tribunal (VCAT) (without going through the VBA internal review process) for review of a decision to immediately suspend, suspend or cancel a registration. A practitioner is encouraged to seek their own advice as to the best option for their circumstances.