

Capacity to practise

What does 'capacity to practise' mean?

The term 'capacity to practise' refers to a registered building practitioner's (practitioner) ability to practise when they may be affected by physical or mental infirmity.

From 1 September 2016, the Victorian Building Authority (VBA) may enquire, under the *Building Act 1993* (the Act), into a practitioner's capacity to practise when their ability to carry out building work in a safe and competent manner may be compromised by physical or mental infirmity.

What does it mean if I receive a show cause notice regarding my capacity to practise?

A show cause process regarding your capacity to practise could potentially result in the suspension (for up to three (3) years) or cancellation of your registration, if the VBA is satisfied you are incapable of practising as a registered building practitioner.

Suspension or cancellation of your registration means you cannot practise or carry out building work as a practitioner.

You should ensure you read the show cause notice carefully and provide a response to the VBA by the due date specified in the notice.

See the [Show Cause Process Practitioner Guide](#) and [Frequently Asked Questions](#) for further information.

How does the VBA decide if I am incapable of practising?

The VBA assess all relevant information received as part of a complaint about your capacity to practise or through its own enquiries.

The VBA may decide to suspend or cancel your registration if it is satisfied that you are incapable of practising as a registered building practitioner due to physical or mental infirmity.

A decision by the VBA to suspend or cancel your registration on grounds of physical or mental infirmity can only be made following a show cause process.

This process involves the VBA sending you a written show cause notice:

- setting out the grounds for proposing to either suspend or cancel your registration
- setting out an outline of the facts and circumstances forming the basis for the ground for proposing to suspend or cancel your registration
- inviting you to respond to the VBA in writing or orally showing why your registration should not be suspended or cancelled.

Any written or oral response provided by the practitioner to the VBA will be considered before the VBA determines whether it is satisfied that the practitioner is incapable of practising as a practitioner due to physical or mental infirmity.

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

You will be given 28 days to respond to the show cause notice.

If you require more time to respond you may request the VBA to consider extending the show cause period by contacting the VBA at discipline@vba.vic.gov.au

What if I do not agree with the VBA's decision to suspend or cancel my registration?

You have a right to seek review of a decision by the VBA to suspend or cancel your registration if it determines you are incapable of practising due to physical or mental infirmity.

The VBA's notice to you setting out its decision will include details of your right to seek internal review by the VBA and/or review by the Victorian

Civil and Administrative Tribunal of the VBA's decision.

See the [Internal Review Process Practitioner Guide](#) and [Frequently Asked Questions](#) for further information.

For information about making a VCAT review application, visit www.vcat.vic.gov.au

Can the VBA revoke the suspension of my registration if my circumstances change?

The VBA may, at any time, revoke the suspension of your registration if it is satisfied that you are capable of practising as a registered building practitioner.

If you believe your capacity to practise is no longer compromised due to physical or mental infirmity, you may apply to the VBA to revoke the suspension. You can do this by submitting a [Practitioner Revocation of Suspension Request Form](#) and supporting documentation.

What if I want to surrender my registration?

Practitioners can offer to surrender their registration by confirming their intention in writing to the VBA, detailing their registration number, other contact details and reason for wanting to surrender, e.g. retirement or ill health. You can do this by completing and submitting a [Surrender of Building Practitioner Application Form](#).

Want to know more?

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

Victorian Building Authority
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www.vba.vic.gov.au