

Changes to practitioner disciplinary action

This fact sheet explains the new and changed provisions in the *Building Act 1993* (the Act) relating to disciplinary action, that commence on 1 September 2016.

THE CHANGES

BPB disciplinary function transferred to the VBA

From 1 September 2016 the Building Practitioners Board (BPB) will be abolished and the disciplinary functions exercised by the BPB will be transferred to the Victorian Building Authority (VBA).

Show cause process

The Act enables the VBA to issue a show cause notice to a registered building practitioner (practitioner) if the VBA 'reasonably believes' a ground(s) exists for taking disciplinary action.

The term 'reasonable belief' requires the VBA to believe, at the time of making a decision, that the basis for doing so is reasonable and is not based on a mere belief or assertion.

The show cause notice is part of the show cause process. The notice sets out the grounds for taking the disciplinary action proposed or other action. The notice will invite the practitioner to respond to the grounds for taking disciplinary or other action. Within the show cause period, the VBA must objectively take into account all known considerations in determining whether grounds exist for taking the proposed disciplinary action or action.

The VBA must provide the practitioner with a written notice of its decision to take disciplinary or other action and reasons for doing so.

Right to seek review of decisions

Practitioners who are dissatisfied with a decision made by the VBA to take disciplinary action after

the show cause process can seek internal review of that decision.

If the practitioner is dissatisfied with an internal review decision, they can seek review of the internal review decision by the Victorian Civil and Administrative Tribunal (VCAT).

Immediate suspension of registration

The Act gives the VBA power to immediately suspend a practitioner's registration if the VBA reasonably believes a ground(s) exists under the Act for doing so. The immediate suspension of a practitioner's registration must be followed by a show cause process.

Enforceable undertakings

The Act enables the VBA to enter into an enforceable undertaking with a practitioner where disciplinary action is proposed to be taken under which the practitioner agrees to be bound to do and/or refrain from doing certain things.

WHAT THE CHANGES MEAN

From 1 September 2016, the VBA will have power under the Act to take disciplinary action and other action against registered building practitioners in certain circumstances. These powers were previously exercised by the BPB, which will no longer exist.

There will also be changes to:

- allow for the immediate suspension of a practitioner's registration
- the process for taking disciplinary action and other action against practitioners
- the review process when a decision is made to take disciplinary action against a practitioner.

Immediate suspension of registration

Under the Act, the VBA **may** immediately suspend a practitioner's registration in certain circumstances.

The Act requires that a notice of immediate suspension **must** be given to a practitioner if the VBA considers the practitioner has ceased to be covered by the required insurance.

In determining to immediately suspend a practitioner's registration, the Act enables the VBA to suspend the registration wholly, or partially, in relation to specified matters only.

See the [Immediate Suspension Practitioner Guide](#) and [Frequently Asked Questions](#) for more detailed information on this process.

Disciplinary action and process

The Act enables the VBA to issue a show cause notice to a practitioner if the VBA reasonably believes a ground exists for taking disciplinary action.

The Act sets out what disciplinary action may be taken by the VBA in relation to a practitioner, following the show cause process, including:

- reprimanding the practitioner
- directing the practitioner to do a specified thing or not to do a specified thing
- requiring the practitioner to successfully complete a specified course training within a specified period
- imposing a penalty of not more than 100 penalty units on the practitioner
- varying or imposing a condition on the practitioner's registration
- suspending the practitioner's registration for not more than three (3) years either wholly, or partially, in relation to specified matters
- cancelling the practitioner's registration and disqualifying the practitioner from being

registered for a period of up to three (3) years.

Practitioners who are dissatisfied with a decision made to take disciplinary action can seek internal review of that decision by the VBA and review by the VCAT.

See the [Internal Review Process Practitioner Guide](#) and [Frequently Asked Questions](#) for more detailed information on this process.

Enforceable undertaking

Under the Act, the VBA may agree to enter into an enforceable undertaking with a practitioner.

An enforceable undertaking is a legally binding written agreement that a practitioner voluntarily provides to the VBA in which the practitioner undertakes to do and/or refrain from doing certain things.

Following acceptance of an enforceable undertaking, the VBA may determine to:

- defer taking the proposed disciplinary action for a specified period
- take disciplinary action that the VBA considers to be less serious than the proposed disciplinary action
- take no further action.

Compliance with an enforceable undertaking will be monitored by the VBA. Non-compliance may result in the VBA taking legal action against the practitioner to enforce the undertaking and/or disciplinary action in relation to the practitioner's registration.

See the [Enforceable Undertaking Practitioner Guide](#) and [Frequently Asked Questions](#) for more detailed information on this process, rights and information about important deadlines.

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

IMPORTANT: This document is intended for
general information only.