



YMAC Policy and Procedures Manual:

3.10.1 THE REVIEW PROCESS OF DECISIONS BY THE BOARD OF DIRECTORS

The Board of Directors must give notice of its decisions to those people who have asked the YMAC to make a decision in relation to its functions and powers where their decisions affect those people.

When a person affected by a decision chooses to seek an internal review of that decision an application for review of the decision must be made in writing within TWENTY-EIGHT (28) days of that decision.

Subsequently, the Board of Directors must provide a written statement setting out the findings on material questions of fact, referring to the evidence or other material upon which those findings were based, and giving the reasons for the decision.

The Board of Directors may refuse to provide a statement of reasons if the request for review was not made with TWENTY-EIGHT (28) days from when the original decision was notified in writing.

In providing a statement of reasons, there is no obligation to divulge information which:

- was supplied to the Board in confidence,
- could be defamatory,
- was supplied under relevant traditional laws and customs,
- should not be provided to the complainant.

The purpose in providing a statement of reasons is to enable a person affected by the decision to be able to say: “Even though I may not agree with it, I now understand why the decision went against me. I am now in a position to decide whether that decision has involved an unwarranted finding of fact or an error of law, which is worth challenging”.

This requires the decision maker to set out in the reasons for decision its understanding of the relevant law, any findings of fact upon which its conclusions depended (especially if those facts have been in dispute), and the reasoning processes which led it to its conclusions. The decision should be given in clear and unambiguous language, not in generalities or in the formal language of legislation. The appropriate length of the statement covering such matters will depend upon considerations such as the nature and importance of the decision, its complexity and time available to formulate the statement.

In providing the statement of reasons, the Board of Directors must advise that person requesting the statement of their right to have the decision reviewed if, after consideration of the reasons, they are not satisfied with the decision. The form **Application for Internal Review** must be provided along with the reasons.



If the complainant still wishes to proceed with the grievance then the completed **Application for Internal Review** form must be given together with the reasons for your complaint to the Secretary within twenty eight (28) days who shall:

- allocate the application a file and reference number; and
- advise the applicant with acknowledgment of the receipt of the application.

The Secretary must make arrangements for the review of the decision within the later of THREE

(3) months (following receipt of a fully completed Application for Internal Review form) or the next Board meeting (following receipt of a fully completed Application for Internal Review form) by the Board of Directors, or, in cases of emergency or exceptional circumstances, or where it is not possible to arrange for a meeting of the Board, by the two Chairs.

The Secretary must advise the applicant of the date of the review.

Initiating the Review Process

If appropriate, the Secretary writes to the person requesting the review and may invite them to attend a meeting or put their argument in writing in relation to the review.

If applicable, the parties are to agree on the venue and whether the person seeking the review is to have representation, including legal representation.

The person requesting the review is to be given an opportunity to fully explain their argument either orally or in writing as to why the original decision is incorrect.

Grounds of Review

The grounds of review are as follows:

- that a breach of the rules of natural justice occurred in connection with the making of the decision (for example, that the applicant was denied the opportunity to be heard in relation to the original decision);
- that procedures that were required by law to be observed in connection with the making of the decision were not observed;
- that the person who purported to make a decision did not have jurisdiction to make the decision or was not allowed to make the decision within the organisational structure of the YMAC;
- that the decision was not authorised by the NTA;
- that the making of the decision was an improper exercise of the power conferred by the NTA;



- that the decision involved an area of law, whether or not that area appears in the written reasons for the decision;
- that the decision was induced or affected by fraud;
- that there was no evidence or other material to justify the making of decision; or
- that the decision was otherwise contrary to law.

Relevant matters will include whether:

- an irrelevant consideration was taken into account in the exercise of a power;
- the Board of Directors failed to take into account a relevant consideration in exercising a power;
- the Board of Directors exercised a power for a purpose other than a purpose for which the power is conferred;
- a power was exercised in bad faith;
- a personal discretionary power was exercised at the direction, request or the behest of another person;
- an exercise of a discretionary power occurred in accordance with a rule or policy without regard to the merits of a particular case;
- an exercise of a power was so unreasonable that no reasonable person could have so exercised the power;
- an exercise of a power occurred in such a way that the result of the exercise of the power is uncertain; or
- there was any other exercise of a power that constitutes abuse of the power.

The person or persons who conduct the review may:

- consider all documents looked at when the original decision was made;
- consider any other relevant documents.

Generally, to avoid allegations that the process is unfair and that the person has been denied a chance to be heard, any additional documents that the reviewer intends to rely upon in making the review decision should be sent to the person or group requesting a review. The person or group requesting the review should be asked to comment on the additional documents.

Notification of Decision and Appeal Rights

After a review decision has been made, the person who requested the review decision will be provided with a statement of reasons for the decision in writing. YMAC must include the following items in a statement of reasons:

- the date the request for review was made;
- the original decision to which the review relates;
- the person who made the original decision to which the review relates;
- the date of the original decision;
- the person or persons who made the review decision;
- the documents relied upon by the person who made the review decision;
- findings of material questions of fact in the review;
- and that has taken into account in making the review decision (the



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notification of the review decision should address all of the points raised in the letter asking for the review);

- the reasons for the review decision; and
- the right of appeal under s.203FB of the NTA.