

Review of Decisions

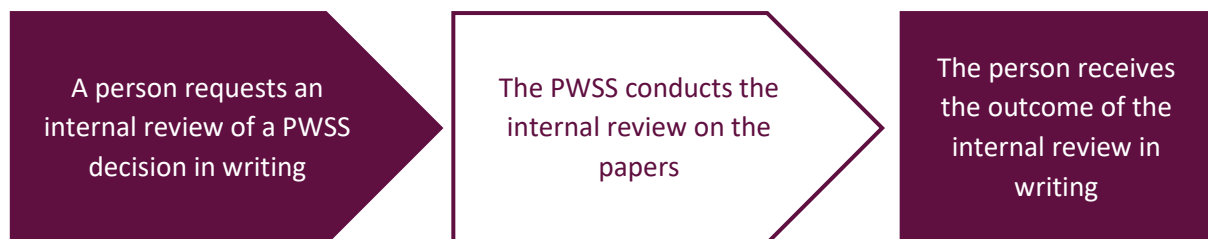
The Parliamentary Workplace Support Service (PWSS) is committed to transparent decision making and to providing a person who is directly affected by a PWSS decision with access to a fair process for internal review.

This factsheet sets out information on what PWSS decisions may be reviewed by the PWSS, who can apply for a review of a decision, how to request a review of a decision and what happens during a review of a decision.

A person can apply for review of a PWSS decision

A person who works or volunteers now, or did in the past, in a Commonwealth parliamentary workplace who is dissatisfied with a decision about a PWSS mediation or workplace review (other than the outcome of a workplace review), can ask the PWSS for an internal review of the decision.

The purpose of an internal review is to ensure the decisions taken by the PWSS are reasonable and fair in the circumstances. The PWSS can assess whether a decision was the correct decision in the circumstances, or whether a different decision would have been preferable.



Some of the common PWSS decisions that may be subject to internal review are:

- A decision not to start, or to stop, a PWSS mediation.
- A decision not to commission a workplace review, or not to commission a secondary review.
- A decision not to release personal information to a person.

There are some decisions that will not be reviewed by the PWSS, such as:

- A decision to commission a workplace review, or a secondary review of a workplace review.
- Who the PWSS decides to undertake a workplace review.
- A decision that was made by someone external to the PWSS.

The PWSS will not undertake an internal review of a decision that has been made by the Parliamentary Service Commissioner (PSC).

For more information about whether a decision can be reviewed by the PWSS, contact a Case Coordinator to discuss by calling 1800 747 977, text 0487 112 755 or by email to support@pwss.gov.au.

A request for internal review must be in writing

To request an internal review, the PWSS must have made a decision and the person requesting an internal review must be directly affected by the decision.

A request for an internal review by the PWSS must be in writing to support@pwss.gov.au and should include:

- a description of the PWSS decision and/or a copy of the written decision and reasons for the decision if available
- the reason(s) for requesting an internal review, and
- any supporting information.

All requests for internal review should be made within 28 days of the person receiving the PWSS decision.

The internal review will be done by a different decision maker

If the PWSS agrees that an internal review is appropriate, it will be completed by a PWSS staff member who was not the original decision-maker. This will generally be a PWSS staff member who is more senior than the original decision-maker.

The PWSS will inform the person who asked for the internal review of the outcome in writing. Possible outcomes include:

- confirming the outcome of the original decision, or
- setting aside the original decision and making a new decision.

The PWSS will offer continued support through the internal review process.

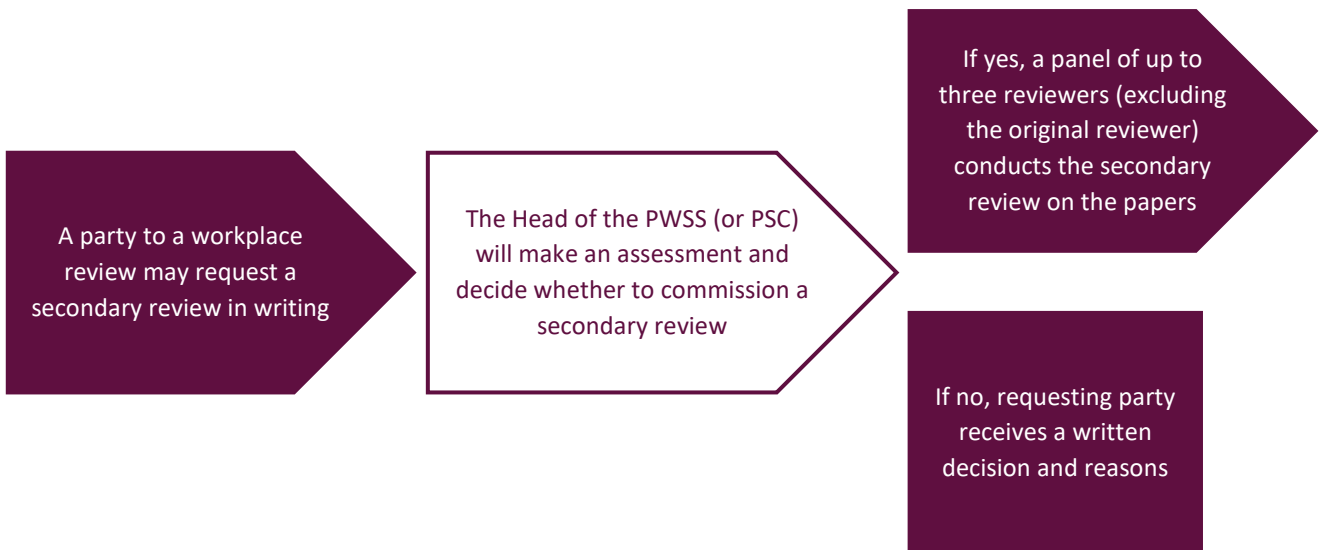
Each internal review will be different and for a variety of reasons may take additional time. The PWSS will aim to complete an internal review within 30 days of receiving a request for review.

A party to a workplace review can request a secondary review

A current or former *Member of Parliament (Staff) Act 1984* (MOP(S) Act) employee or parliamentarian who is a complainant or respondent (party) in a workplace review may, in some circumstances, ask the PWSS for a secondary review.

The purpose of a secondary review is to ensure the decisions taken by the original reviewer are consistent with the principles of natural justice.

A secondary review is not a re-investigation of the complaint.



The PWSS will decide whether to commission a secondary review

The Head of the PWSS (or the PSC) will undertake an assessment to determine if a secondary review should be commissioned.

If a decision is made not to commission a secondary review, the requesting party will be notified of the decision and the reasons for the decision.

A secondary review may be commissioned on procedural grounds or to review a recommendation

The PWSS may commission a secondary review for one or more of the following reasons:

- There is credible new evidence which has become available, which could not reasonably have been presented to the original reviewer before the review was concluded, and which, if accepted, has a real prospect of affecting the outcome.
- The process used to complete the workplace review or the decision-making was procedurally flawed.
- A party submits a recommendation made by the original reviewer was unreasonable or disproportionate to the findings made.

The PWSS will not commission a secondary review of a recommendation to impose a sanction of termination of employment, as termination of employment can be reviewed by the Fair Work Commission.

A request for secondary review must be in writing

A request for a secondary review must be made in writing to support@pwss.gov.au and should include the reason(s) for the request, and any supporting information.

A request for secondary review must be made within 14 days of the party receiving the reviewer's final report. The timeframe to request secondary review will not be extended unless there are exceptional circumstances. This is to ensure the workplace review process can provide certainty for all review participants.

The PWSS will inform the parties of a request for secondary review

The PWSS will inform the complainant or the respondent, and the respondent's employing parliamentarian (if any), if the other party has requested a secondary review and offer continued support through the process.

The secondary review process will be guided by principles of procedural fairness and operate in a trauma-informed manner

The PWSS may commission a panel of up to three independent reviewers (not including the original reviewer) to conduct a secondary review. If the secondary review relates only to a review of recommendation(s) made by the original review, the PWSS may commission a single independent reviewer.

A secondary review will ordinarily take place on the papers, to reduce the amount of times a party needs to tell their story.

The review panel must ensure procedural fairness requirements are met.

The PWSS will advise the parties of the outcome of a secondary review

The review panel will deliver a secondary review report to the Head of the PWSS, who will ensure the report is distributed to the parties, the employing parliamentarian (if any) and the PSC. Possible outcomes of a secondary review include:

- confirming the outcome of the original review, or setting aside the outcome and making new findings, and/or
- confirming the recommendation(s) of the original review, or setting aside the recommendation(s) and making new recommendation(s) (which could include making recommendations more adverse to a party), and timeframes for action.

At the conclusion of the secondary review, the first reviewer will be advised of the outcome and reasons.

The PWSS will not review the same decision again

The PWSS will only review a matter once.

However, if new information becomes available, which could not reasonably have been presented to the PWSS before the original decision was made, a complaint can be resubmitted and the PWSS may consider it afresh.

An internal review or secondary review through the PWSS does not preclude a person from pursuing external options such as making an application through the Courts, the Australian Human Rights Commission or the Fair Work Commission.