

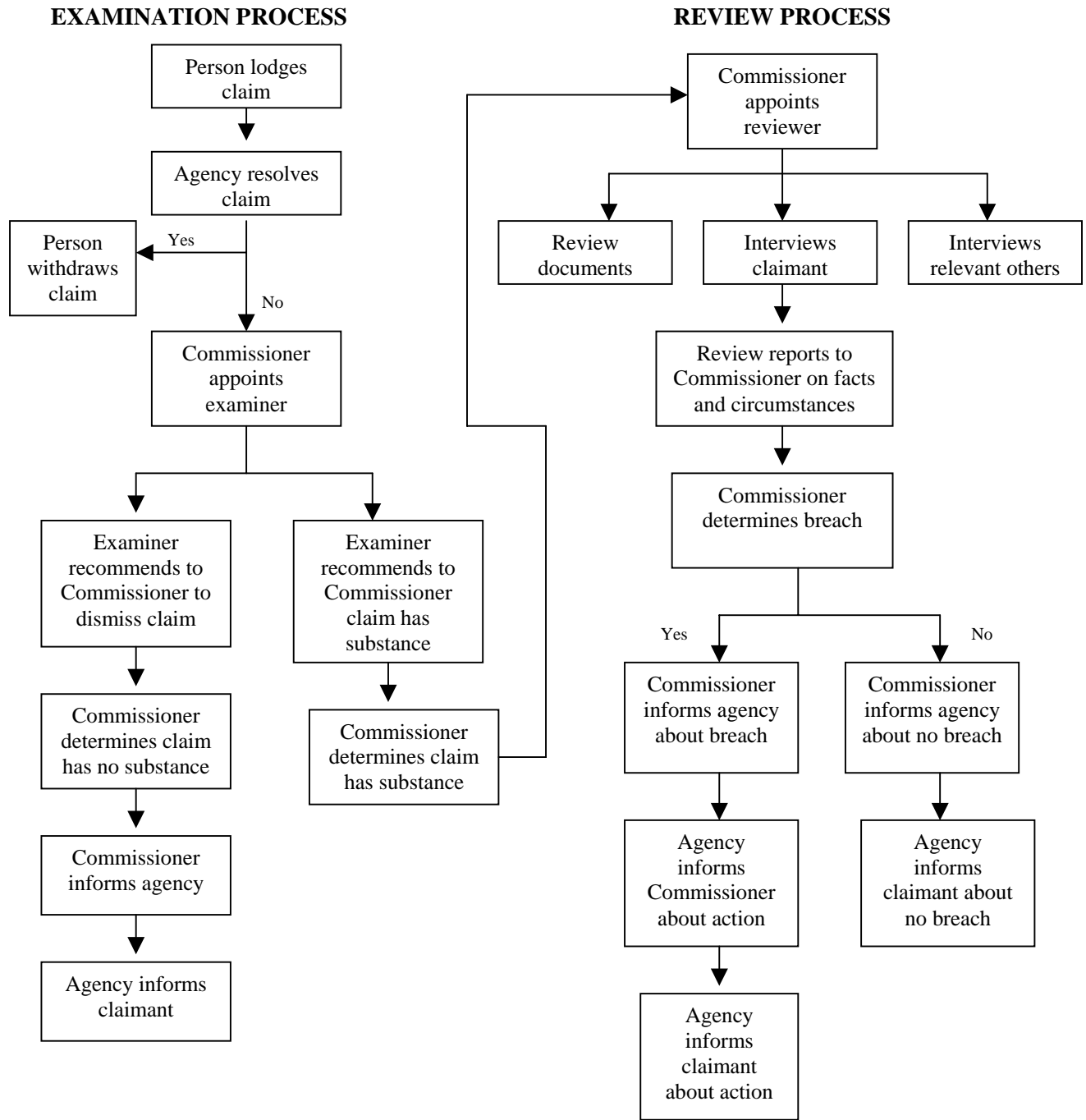
WORKCOVER WA

Public Sector Management (Examination and Review) Regulations 2005

Breach Procedures for the Following Standards

- **Recruitment, Selection and Appointment**
- **Transfer**
- **Secondment**
- **Performance Management**
- **Redeployment**
- **Termination**
- **Temporary Deployment (Acting)**
- **Grievance Resolution**

Sept 2005



Introduction

The Regulations aim to provide relief to persons who consider that an employing authority has breached a Public Sector Standard in Human Resource Management.

If a person considers a human resource decision or action taken by an employing authority has breached a Standard, and that breach has adversely affected them, they can require that the employing authority request the Commissioner to appoint an independent person.

The Regulations operate from 1 Sept 2005.

What must I do to submit a claim

The Regulations require you to make a genuine attempt to obtain information from the relevant people about the process used and/or decisions made.

Your claim must be in writing and lodged with the relevant employing authority by the lodgement date, which is eight working days from knowing of the decision. Your claim must set out the grounds of your concerns, and show how you have been adversely affected by the decision.

A breach claim form (optional) and further information to assist you is available from your Human Resources Branch.

Can an agency resolve my claim before an examiner is appointed?

Under s.29 of the *Public Sector Management Act 1994* (the Act), it is the role of an employing authority to resolve or redress employee grievances. The Regulations are designed to provide the opportunity for the employing authority to do so without the need to appoint an independent person. However, if the claimant is not satisfied and does not withdraw his or her claim, an independent person must be appointed.

What is the role of the examiner?

The examiner is to recommend to the Commissioner whether the claim has substance to proceed to the review stage. In doing so, the examiner does not examine the detail of the merits or interview the claimant.

The examiner considers the information provided by the claimant, the agency's response to the claim, and the actions the agency has taken to resolve the claim. The examiner may speak to any person if they require clarification.

What is the role of the reviewer?

The reviewer is to gather the facts and circumstances of the claim, and provide a report to the Commissioner. In doing this, the reviewer must examine all relevant documentation including advertised vacancy files, other files, policies and procedures, as well as interviewing the claimant and any other persons who may assist in the process.

It is the role of the Commissioner, not the reviewer, to determine whether the Standard has been breached.

What does providing 'relief' mean?

For the purposes of the Regulations, relief means the alleviation of or deliverance from distress or anxiety or concern, where an employing authority has breached a Public Sector Standard in Human Resource Management.

In some instances, the examination or review process, itself may provide the relief.

Where a breach is determined, the responsible employing authority must be able to demonstrate that they have made a decision or taken action, which alleviates the situation of the person affected by that breach.

Recruitment, Selection and Appointment Standard

Once a decision is made to:

- Select or not select a person to be included in an appointment pool; or
- Appoint or not appoint a person to an advertised vacancy.

The Regulations require employing authorities to inform applicants about the breach of Standard procedures. The person has ten working days from receiving the letter to lodge a breach of Standard claim.

Once a claim is lodged, the selection or appointment cannot occur until the regulatory process has concluded. This provision does not apply to entry-level, however, an agency may choose to hold-up entry level appointments.

Transfer Standard

Once a claim is lodged against the Transfer Standard, the transfer cannot proceed until the regulatory process has concluded.

An employing authority may temporarily deploy a person to undertake the job while it is subject to the regulatory process. However, such decisions must be transparent and capable of being judged as reasonable.

Standards other than Recruitment, Selection and Appointment

The Regulations do not require an employing authority to inform those who believe they have been adversely affected by any of the above Standards, about the breach of Standard procedures.

However, it is the role of employing authorities to inform employees about their rights. Employees, for their part, have a responsibility to familiarise themselves with the breach of Standard procedures.

An employee has eight days from when they became aware of the decision or action, as long as that decision did not occur more than six months ago.

Discipline Standard

In accordance with s.96 of the Act, the breaches of Standard procedures do not apply to the Discipline Standard.

Further Information

If you require further information about the Regulations or the Standards, please contact the Human Resource Branch or visit our web-site.