

A show cause notice on disciplinary action must only state the employee is liable for termination of employment if the delegate reasonably believes that the employee might, in the circumstances, have their employment terminated.

The delegate must provide the employee with a minimum of 7 days from the date of receipt of a show cause notice on disciplinary action to consider and respond to the notice, having regard to the volume of material and complexity of the matter. The delegate may grant, and must consider any request for, an extension of time to respond to a show cause notice on disciplinary action if there are reasonable grounds for extension.

If the employee does not respond to a show cause notice on disciplinary action or does not respond within the nominated timeframe and has not been granted an extension of time to respond, the delegate may make a decision on disciplinary action based on the information available to them.

The delegate may combine the disciplinary finding (refer to section 4.2 of this Attachment) and the show cause notice on disciplinary action within the same written correspondence.

4.4 Decision on disciplinary action

A delegate must review all relevant material, including any submissions/response (if any) from the employee in response to a show cause notice, and make a final decision on the disciplinary action to be taken.

The delegate must inform the employee of the decision in writing, including:

- the reasons for the decision, including consideration of any information provided by the employee in response to a show cause notice
- excluding a termination decision, information that the employee may appeal the decision on disciplinary action
- for a termination decision, information that the employee may lodge an application for reinstatement under the *Industrial Relations Act 2016*

A delegate may decide to impose disciplinary action different to the disciplinary action proposed in the show cause notice on disciplinary action, provided that:

- the revised disciplinary action is objectively less onerous than the original action proposed; or
- the employee is given a further opportunity to comment on the appropriateness of the new proposed action, before a final decision on the disciplinary action is made and communicated to the employee; or
- the employee has suggested the disciplinary action as an appropriate alternative penalty.

Disciplinary action (other than a termination decision) is not to be implemented until the period for an appeal against the decision to discipline an employee has expired or any appeal lodged is finalised.

The delegate may combine the procedural elements of a show cause process for disciplinary finding and a show cause process for proposed disciplinary action where:

- the particulars of the evidence being relied on to determine discipline liability are not likely to be disputed (for example, where the employee has been found guilty, or pleaded guilty, to a criminal offence in relation to the conduct the subject of the discipline process, regardless of whether a conviction is recorded in relation to that offence), and
- the delegate reasonably believes the progression or finalisation of the matter is in the best interests of the employee.