

Reconsiderations on request

Reconsiderations

∨ Reconsiderations on request and reconsiderations of own motion

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Introduction

A reconsideration is an internal review of a primary determination made by Comcare or, in relation to rehabilitation, a review of a determination made by an employer, under the SRC Act. Employees and employers have the right to request a reconsideration of a primary determination. A reconsideration must be undertaken by a person who was not involved in

making the primary determination. Comcare's Reconsiderations and Appeals team performS reconsiderations for Comcare managed claims.

The exception is [reconsiderations of own motion](#), in which Comcare reconsiders its own determination without having been asked to do so by an employer or employee. These are completed by the Claims Manager managing the claim.

The outcome of a reconsideration is a 'reviewable decision'.

A reviewable decision may:

- affirm – the determination does not change
- vary – the determination is changed in some way, or
- revoke – the determination is overturned and replaced with the reviewable decision.

Disagreeing with the reconsideration

If the employee or the employer disagrees with the reviewable decision, they may apply to the Administrative Appeals Tribunal (AAT) for a merits review of the decision.

An application for merits review must be lodged with the AAT within 60 days from the day the reviewable decision is received. The details for the AAT registry in the employee's state are included in the reviewable decision.

Relevant sections of the SRC Act

Sections [60](#), [61](#), [62](#) and [63](#) of the SRC Act are the specific legislative provisions on reconsiderations.

Comcare also reviews certain rehabilitation determinations in accordance with [section 38](#) of the SRC Act.

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Requirements under the SRC Act

A request for reconsideration must meet all of the following requirements:

- There must be a determination made under a reviewable section(s) of the SRC Act.
- The request for reconsideration must set out the reasons for the request.
- The request for reconsideration must be given to Comcare (the determining authority) within 30 days of receipt of the determination, or any such period as Comcare considers reasonable (this is determined by the Reconsiderations and Appeals team).

If a request for reconsideration is non compliant then a Reconsideration Officer will assist the requestor to meet the requirements and may provide an extension of time to allow information to be obtained and provided ahead of making a formal request for reconsideration.

A reviewable decision is ultimately made following receipt of a request for reconsideration and review of the available information on the claim file. Written requests for a reconsideration are preferred, for example by using the [Reconsideration Request Form](#), but not mandatory, and requests for reconsideration made over the phone are also accepted.

If the employee or employer requests a reconsideration, the other party (employer or employee) is provided with the details of the reconsideration and supporting documentation and is invited to respond.

Timeframe for requests for reconsideration

For an employee or employer who cannot make a request for reconsideration within 30 days of receipt of a determination, they can apply for an extension of time (EOT). A request for an extension of time to make a request for reconsideration can be made over the phone. A decision by Comcare to refuse an EOT request is also a reviewable decision that is reviewable by the AAT.

See [Procedure to action a request for an extension of time to submit a request for reconsideration](#) for more information.

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Decisions not reviewable under the SRC Act

Decisions not subject to reconsideration

Not all decisions can be reconsidered by Comcare. A decision made outside the scope of [section 60](#) of the SRC Act cannot be reconsidered by Comcare, including but not limited to refusal to deal with a claim ([section 58](#)).

If an employee or employer wants an administrative decision reconsidered that is not reviewable under the SRC Act, they can do so under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) by application to the Federal Court of Australia. Initiating costs of the application are borne by the employee.

Actioning requests for non-reviewable decisions

If an employee or employer request a reconsideration of a non-reviewable administrative decision, the request must be rejected. The party requesting the reconsideration should be advised that there is no provision under the SRC Act for the decision to be reconsidered by Comcare.

The employee or employer should be advised in writing (this may be done via email or using the standard template letter in Pracsys – discuss with the Assistant Director and Director) that they can consider seeking judicial review under the ADJR Act with the Federal Court of Australia.

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Reconsiderations where the claim is subject to AAT proceedings

Claims Manager-initiated Reconsideration of own motion

Comcare has the authority to reconsider a determination at any time by way of [Reconsideration of own motion](#) (ROM). Caution should be exercised when a claim is subject to ongoing Administrative Appeals Tribunal (AAT) proceedings. In such cases, the Claims Manager must consult with the Reconsideration and Appeals (R&A) team at the earliest opportunity before initiating any ROM.

If a ROM is deemed necessary, the Claims Manager should:

- inform the relevant Instructing Officer of the reconsideration request

- provide the expected timeframe for the decision
- seek guidance on potential implications for the AAT proceedings.

The R&A team will assess the circumstances and advise on the appropriate course of action, considering:

- the stage of the AAT proceedings
- the potential impact on the ongoing case
- any other relevant considerations.

Reconsideration requests

In cases where a formal request for reconsideration has been received and there is an ongoing AAT matter, the Reconsiderations Officer will contact the relevant Instructing Officer to inform them of the reconsideration request and discuss the expected timeframe for the decision.

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Service standards

In general, all parties to the request for reconsideration will be:

- assisted to make a compliant request for reconsideration
- informed of progress being made throughout the review, and
- notified of any extension of time to allow for the submission of new or additional evidence.

More specifically, Comcare's service standards timeframes for reconsiderations are as follows:

Process	Timeframe
Requests for reconsideration registered	1 business day
Requests for reconsideration acknowledged in writing and allocated to a Reconsideration Officer	2 business days

Timeframe for employee or employer to provide additional information	7 calendar days
<p data-bbox="63 89 1354 154">Timeframe to decide requests for reconsiderations</p> <p data-bbox="63 186 1354 316">A reconsideration request received from an employee on or after 1 April 2024 in relation to a decision made under section 38 or 62, must be issued on or within 30 calendar days as per the prescribed timeframes under subsection 62(6) of the SRC Act.</p> <p data-bbox="63 349 1354 446">The 30-calendar day timeframe starts on the date that Comcare receives the reconsideration request from the employee.</p> <p data-bbox="63 479 1354 576">As the prescribed timeframes are calendar days and not business days, the 30-calendar day timeframe includes Saturdays, Sundays and public holidays.</p> <p data-bbox="63 609 1354 706">There are no prescribed timeframes for reconsiderations requested by the employer or reconsiderations of own motion.</p> <p data-bbox="63 738 1354 836">The Reconsiderations and Appeals team aim to have reconsideration requests received from the employer decided within 30 days.</p>	30 calendar days

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Procedure to register a reconsideration

Step 1: Receive reconsideration request

A request for a reconsideration is received by the Reconsiderations and Appeals team through the [Reconsiderations team email address](#) or through a notification in Pracsys or by phone.

The Assistant Director (Reconsiderations) is responsible for monitoring the email inbox.

On receipt of a new reconsideration request, the Assistant Director (AD):

- will assess whether it meets the requirements for a reconsideration request.
 - If not, they will work with the requestor to assist in either providing a compliant request or understanding why a reconsideration is unable to be undertaken
 - If it meets requirements, the AD will allocate the reconsideration request to either a Senior Reconsideration Officer or a Reconsideration Officer based on the [allocation principles](#).

Step 2: Register the request

Once a reconsideration request meets the requirements (discuss with the Assistant Director to clarify as needed), the reconsideration request is then registered in Pracsys.

Go to '*Manage Reconsideration*' (MREC), enter the claim number and click on the '*Search*' button.

If no record comes up, under the '*Receipt*' tab complete the following fields:

- received date - enter the date the reconsideration request was received by Comcare
- initiator - select who initiated the reconsideration from the drop-down menu
- delegate Type - radio button (default is Comcare)
- delegate (determining officer) - click on the binoculars to search for the delegate by name. Note: For rehabilitation determinations, use the agency as the delegate's name
- determination date
- exclude from Auto Affirmation Letter – leave this as 'No'
- issue (select from drop down menu), and section of Act in Dispute (use binoculars to search for section).

Under the 'Management' tab complete the following fields:

- review Officer field (can be entered manually or you can click on the binoculars and search for the Reconsiderations Officer's name)
- SRCC Compliance date (same as date received)
- change radio buttons for Communication to claimant or claimant firm (whichever one is appropriate) to 'Yes'
- if claimant is represented, enter in their legal representative using the binoculars
- radio button for Communication to Customer to 'Yes'
- select 'new' and enter the following in the comments field:
 - date request was received
 - issue under review including the determination date
 - Senior Reconsideration Officer's or Reconsideration Officer's name, and
 - if represented, add representative's details
- click the 'OK' button, and
- click 'Create' to save the reconsideration.

Step 3: Update the reconsideration task tab

Go to MREC and under the '*Reconsiderations Task*' tab:

- select 'New' task
- in the Task - enter 'Triage' with a due date of the next business day.
- select new - task 'Natural Justice Period' with a due date 7 days from date of registration
- if there is a current AAT matter for the employee, enter the details including the Instruction Officer's name in the text box bottom of the screen
- click 'Amend'.

Step 4: Send a letter to the employee and employer acknowledging the request

Your letter should use the letter in Pracsys 'reconsideration acknowledgement' and include:

- the reconsideration reference number(s)
- details of the determination(s) that will be reviewed

- to the non-requestor include a copy of the request for reconsideration and the opportunity to provide a response (7 calendar days).

Step 5: Arrange to participate in a triage with the relevant Claims team on the next business day

For further guidance, refer to the [triage meeting](#) page.

This is the end of the procedure.

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Procedure to assess a reconsideration

This procedure is completed by the Reconsiderations and Appeals team.

When issuing a reviewable decision, you must apply the same considerations as you or the rehabilitation authority did when the primary determination was made. As always, it is important to keep all parties informed as to your actions and approximate timeframes.

The following procedure outlines the process to assess a reconsideration before drafting the reviewable decision.

This procedure is a guide only and it may be necessary for you to refer back to a step more than once when assessing the reconsideration.

Step 1: Review the claim file

In reviewing the claim file consider the following:

- whether there are any relevant AAT proceedings. If so, discuss with Instructing Officer
- whether all the available and relevant evidence on the employee's claim file was considered at the time of the primary determination
- any new evidence provided since the primary determination
- whether any additional evidence is required (a decision should not be issued unless any questions or issues surrounding the primary determination have been resolved).

AAT matters

Where there is a related AAT matter, the AAT Instructing Officer should be kept informed as to your actions and approximate timeframes.

Step 2: Draft and review determination

Consider all the evidence and make a decision whether to:

- **affirm** that the primary determination was correct and is sustainable
- **vary** the primary determination, either favourably or unfavourably
- **revoke** the primary determination as it is no longer appropriate and a new finding has been made, which is different to the primary determination.

Draft, using the 'Section 62 Reconsideration reviewable decision letter' template, a letter to the employee (their representative) or service provider.

The template letter has the following which is required under [section 63](#) for a reviewable decision:

- the terms of your decision, eg. 'affirm', 'vary' or 'revoke'
- the reasons for the decision
- Notice of Rights to seek review by the AAT (this is an attachment to the letter).

Go to 'MREC' in Pracsys and under the 'Reconsiderations Task' tab tick the 'ready for QA' box.

Submit your draft determination to your Assistant Director for review and clearance. For more guidance, see [quality assurance](#).

The Assistant Director will then submit the draft decision to the Director who will consider and, if appropriate, make the decision as the Delegate.

Important: Do not continue or finalise the outcome and communicate it until it has been through the quality assurance process by your Assistant Director and Director (or in some cases the Senior Director of General Manager).

Step 3: Advise all stakeholders of the outcome

Once the draft decision has been cleared by the Director, telephone the Claims Manager to advise of the outcome and discuss the reasons for the decision and any future management actions. If the outcome is to revoke or for a substantial variance, you should discuss with your Assistant Director to determine if a return triage is required. If so, then arrange a [triage](#) instead of a telephone call to the Claims Manager.

The Claims Manager is responsible for determining any benefits flowing from the decision.

Telephone the Rehabilitation Case Manager to advise of the outcome.

Telephone the employee. If the request is from a solicitor, the decision is emailed without telephone contact.

Enter details of all telephone calls in the comments field of the decision tab in 'MREC'.

Step 4: Advise the employee or their representative in writing

Finalise and send the reviewable decision letter (see Step 2) to the employee or their representative, with a copy sent to the employer using the 'reviewable decision to employer' template. Whether a reconsideration has been requested by the employee or employer, the reviewable decision is always issued to the employee (or their representative) with a copy provided to the employer.

Step 5: Update Pracsys

Finalisation in Pracsys includes:

- completing decision screens in MREC
- entering a comment in the comments of the decision tab in MREC detailing findings of the reviewable decision
- ensuring all documents are attached to the claim file, including approved triage form and approved Reconsiderations claim plan.

This is the end of the procedure.

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Procedure to action a request for an extension of time to submit a reconsideration request

This procedure is completed by the Reconsiderations and Appeals team.

An employee or employer who submits a request for reconsideration is required by legislation to do so within 30 days of receiving the original determination or within a further period as Comcare allows. An extension to the 30 days is referred to as an 'Extension of Time' (EOT). Requests for EOT are assessed on a case-by-case basis and can be submitted in advance of the request for reconsideration.

The following procedure outlines the steps taken when a request for EOT is received before a reconsideration has been registered in Pracsys.

An EOT to submit further information should only be granted by the Reconsiderations Team.

Step 1: Review the reasons for the request

In reviewing the request you should consider:

- the requesting party's explanation for requiring additional time to lodge the reconsideration
- the circumstances of the delay
- the time elapsed since the determination
- any previous requests
- whether the information is relevant to the reconsideration issue
- the merits of the reconsideration
- whether it would be fair and equitable, and
- any other relevant matters, such as prejudice to Comcare.

Examples of where an extension of time may be appropriate:

Subject to consideration of the above factors, some circumstances where Comcare may consider it appropriate to allow an extension of time are where debilitating medical conditions or hospital admission prevent lodgement, delays in receiving the

original determination, and medical or other information that is critical to the reconsideration has been requested but not received.

Step 2: Determine if the request is reasonable

- If yes, continue to **Step 3**.
- If no, discuss next steps with the Assistant Director Reconsiderations as a reviewable decision may need to be issued. Draft a letter using the 'Section 62 reconsideration' template to the employee/employer with the reasons the EOT was denied.

As part of this process, go to 'Manage Claim Comment' (MCOM) and enter a comment that the extension was denied. You should also record all your conversations.

The procedure ends here for requests that have been denied.

Step 3: Send letter acknowledging and granting the extension request

Draft, using the 'Time extension for reconsideration' letter template in Pracsys, the extension of time, noting you will need to select the letter template based on who requested the extension of time.

Your letter should include:

- that the EOT has been granted
- the date the EOT has been granted until.

Remember to cc in the non requestor (either the employee or employer).

Example: If the request was made by the employer, notify the employee of the EOT. If the request was made by the employee, notify the employer of the EOT.

Note: Where an EOT has been granted for an employee or employer to submit a request for reconsideration, no compliant request will be entered in Pracsys until the actual request has been received with the additional evidence.

Step 5: Update Pracsys

Go to '*Manage Claim Comment*' (MCOM) and enter a comment. Record all your conversations. Your comment should state 'RECON EOT granted to employee/employer/solicitor until (insert date), no further action will be taken if a response is not received within the specified time-period'.

This is the end of the procedure.

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Procedure to withdraw a request for a reconsideration

An employee, employer or solicitor/representative who has submitted a request for reconsideration is entitled to withdraw the request at any time before the reviewable decision is issued. A request for reconsideration should be withdrawn, preferably in writing, by the person or their representative who submitted the original request.

The following procedure outlines how a reconsideration is withdrawn once it has been entered in Pracsys.

Step 1: Send a letter to the party that is requesting the reconsideration be withdrawn

Draft a letter to the requestor using the 'withdrawal of reconsideration' letter template.

Remember, when sending, to cc in the non-requesting party.

Step 2: Withdraw the request in Pracsys.

Go to '*Manage Reconsideration*' (MREC), select the relevant reconsideration and open the 'Decision' tab:

- select 'Withdrawn' in the 'Decision' drop down menu
- select 'Same evidence' in the 'Basis' drop down menu
- enter the date in the 'Decision Date' field
- enter the date in the 'Despatch Date' field, and
- click on 'New'
- in the empty window that opens up enter your comments advising the request for reconsideration was withdrawn, who requested it be withdrawn and why it was withdrawn.

Once reconsideration has been marked as withdrawn no further changes can be made.

This ends the procedure.

