Agency referral of breach of Standard claim   
to the Public Sector Commission

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| --- | --- |
| Claimant |  |
| Agency |  |
| Relevant Standard |  |
| Date claim lodged |  |

|  |  |
| --- | --- |
| The person is eligible to lodge a claim | Yes  No |
| The claim was made within the prescribed lodgement period | Yes  No |
| Four day breach period | 10 day breach period |
| Notification letter to claimant for date of reviewable decision attached, if applicable | Yes  No |
| Agency documents checklist completed | Yes  No |

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| --- | --- |
| Claimant’s contact details | |
| Home address |  |
| Home phone |  |
| Work phone |  |
| Mobile |  |
| Email |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Agency’s nominated officer | | Agency’s human resources officer | |
| Name |  | Name |  |
| Title |  | Title |  |
| Work phone |  | Work phone |  |
| Work mobile |  | Work mobile |  |
| Email |  | Email |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Public Sector Commission (office use only) | | | |
| Date claim received |  | Claim file number |  |
| Outcome |  | Date finalised |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Names of relevant officers involved in the process (e.g. panel members) | | | |
| Name |  | Name |  |
| Title |  | Title |  |
| Work phone |  | Work phone |  |
| Work mobile |  | Work mobile |  |
| Email |  | Email |  |

|  |  |
| --- | --- |
| Is the agency willing to participate in conciliation? | Yes  No |

Agency action and documents

|  |
| --- |
| Outline any action taken to resolve the claim with the claimant |
| For example, any explanation provided to the claimant or proposed resolution that was discussed with the claimant. Please note under regulation 10 (aa) of the [Public Sector Management (Breaches of Public Sector Standards) Regulations 2005](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s37434.html), the agency is to make reasonable attempts to resolve the claim with the claimant prior to the claim being sent to the Commission. |
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| Outline the agency’s position on the claim |
| For example, does the agency consider that the process used has complied with the principles of the relevant Standard, or has the agency identified any areas of concern or possible areas for practice improvement? |
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| Please list and attach any documentation supplied to the claimant as part of resolving the claim |
|  |

Refer to the agency document checklist to ensure you have provided the required documentation to the Public Sector Commission. It will help the Commission and the agency to process claims in a timely manner.

Agency documents checklist

|  |  |
| --- | --- |
| Employment Standard | |
|  | Completed [agency referral of breach of Standard claim](https://www.wa.gov.au/organisation/public-sector-commission/breach-of-standard-claims) form. This includes the agency’s position on the claim and an outline of any resolution attempted or feedback provided to the claimant |
|  | The claim |
|  | For transfer, acting and secondment, documents relating to the decision making process, including for transfer an outline as to how any employee interests identified by the employee were considered |
|  | If the claim relates to a recruitment process, a copy of the selection report (including appendices, referee reports and panel member working notes if available) |
|  | Any letters, documents or emails relevant to the claim, including, if relevant, the claimant’s notification letter (not all Employment Standard decisions are notifiable) |
|  | Claimant’s job application |
|  | A copy of the role description form and advertisement for the position |
|  | Copies of relevant agency policies and procedures |

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| Grievance Standard | |
|  | Completed [agency referral of breach of Standard claim](https://www.wa.gov.au/organisation/public-sector-commission/breach-of-standard-claims) form. This includes the agency’s position on the claim and an outline of any resolution attempted or feedback provided to the claimant |
|  | The claim |
|  | Copy of the original grievance from the claimant to the agency |
|  | The agency’s letter to the claimant outlining their response to the grievance |
|  | Copy of the agency’s grievance report/investigation |
|  | Any letters, documents or emails relevant to the claim, including the claimant’s notification letter |
|  | Copies of relevant agency policies and procedures |

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| --- | --- |
| Performance Management Standard, Termination Standard, Redeployment Standard | |
|  | Completed [agency referral of breach of Standard claim](https://www.wa.gov.au/organisation/public-sector-commission/breach-of-standard-claims) form. This includes the agency’s position on the claim and an outline of any resolution attempted or feedback provided to the claimant |
|  | The claim |
|  | Any letters, documents or emails relevant to the claim |
|  | Copies of relevant agency policies and procedures, includes templates used by the agency |

| ***Breach of Standard claim assessment template***  Name of claimant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_HRprocess:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date received\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Standard: Employment | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Claimant concerns | | Relevant principle of the Standard | Information considered in assessment | Agency assessment | Process met the Standard | Process partially met the Standard | Process did not meet the Standard | Appropriate action taken |
| Mr Smith claims that the panel chair was biased toward the successful applicant because they have worked together before.  SAMPLE | | Equity Principle | Interview with panel chair and members.  Review of selection documentation. | The panel chair declared his knowledge of the applicant from his previous workplace (two years ago). This was recorded in the selection report and discussed with the other members of the panel. . The two other panel members did not know the successful applicant, and the panel assessment report shows that the panel chair rated the applicant less favourably at short listing and after interview.  In this case it was evident that the perceived conflict was declared and could therefore be managed by the panel. There is no information to indicate that any bias occurred in this process.  Claim not substantiated | **X** |  |  | No further action undertaken |
| Link to the [Public Sector Management (Breaches of Public Sector Standards) Regulations 2005](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s37434.html) | | | | | | | | |
| **Comments** | Assessment highlights that process undertaken was within the minimum requirements of the Employment Standard. | | | | | | | |

Breach of Standard claim assessment template

# Overview

This document has been developed as a supporting document to assist human resource practitioners in using the breach of Standard claim assessment template. The breach of Standard claim template is not mandatory, however, may be a helpful tool for practitioners when working through breach of Standard claims. The template may also assist an agency when providing a response to the Public Sector Commission on the claim should it not be withdrawn.

**Using this assessment template**

**Claimant concerns**

Review the breach of Standard claim to identify the issues raised in the claim. Document each of the issues raised in the template.

**Relevant principle of Standard**

Identify which principle of the relevant Standard relates to each of the claimant’s issues. For example, if it is a recruitment process does an issue relate to the Equity or Transparency Principle under the Employment Standard. Note the principle in the corresponding box adjacent to the claimant issues column. You may wish to group issues related to the one principle of the Standard in the same row of the template.

**Information considered**

Include all information that you have considered as part of your review, for example selection report, interviews with the claimant, discussions with the panel chair.

**Agency assessment**

Provide an overview of the assessment undertaken to review the claim and a view on whether the process met the minimum requirements of the Standard (see template for example).

**Self-assessment checklist**

Evaluating the process undertaken, make a self-assessment as to whether the process met, partially met or did not meet the minimum requirements of the Standard. If part of the process partially met or did not meet the minimum requirements of the Standard, if appropriate, this may be an opportunity to recommence part of the process again.

**Appropriate action taken**

If part of the process is re commenced, outline the appropriate action that was undertaken.

**Comments**

The comments box may be used to provide further information which may be beneficial to the Public Sector Commission should the breach of Standard claim be forwarded for review.

If you require further assistance with the application of this document email [agencysupport@psc.wa.gov.au](mailto:agencysupport@psc.wa.gov.au).

| ***Breach of Standard claim assessment template***  Name of claimant:       HRprocess:       Date received:  Standard: (Employment, Performance Management, Grievance Resolution, Redeployment, Termination) | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Claimant concerns | | Relevant principle of the Standard | Information considered in assessment | Agency assessment | Process met the Standard | Process partially met the Standard | Process did not meet the Standard | Appropriate action taken |
|  | |  |  |  |  |  |  |  |
| Link to the [Public Sector Management (Breaches of the Public Sector Standards) Regulations 2005](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s37434.html) | | | | | | | | |
| **Comments** |  | | | | | | | |