



commission for  
children and young people  
and child guardian

# Queensland Civil and Administrative Tribunal

Applicants refused a blue card (if not automatically excluded due to child sex or child pornography-related offences) may apply to the Queensland Civil and Administrative Tribunal for a review of a decision by the Commissioner for Children and Young People and Child Guardian

## What is the Queensland Civil and Administrative Tribunal?

The Tribunal is an independent body which reviews administrative decisions made by government agencies, including those made by the Commissioner for Children and Young People and Child Guardian about blue cards.

This may include decisions about:

- the issuing of a negative notice, or
- the refusal to cancel a negative notice previously issued.

If you are not satisfied with a decision by the Commissioner, you can apply to the Tribunal to have the decision reviewed.

## How do you apply for a review of the Commissioner's decision?

You must lodge a **review application form** with the Queensland Civil and Administrative Tribunal (see contact details over the page).

When you complete the form, list all the grounds for a review, including why you think the Commissioner's decision is wrong, and send it to the Tribunal.

If you have difficulty completing the form, Tribunal staff can help you.

## Time limits on review applications

You must file an application for a review of the Commissioner's decision **within 28 days of receiving the letter** from the Commissioner advising you of the decision.

Extensions are granted only if the President of the Tribunal is satisfied there is a reasonable excuse for the delay.

If the President is not satisfied with your reason for lodging the application late, the Tribunal will not review the Commissioner's decision.

## How does the Tribunal work?

The Tribunal is not like a court. It can decide both questions of law and questions of fact. It is not bound by rules of evidence the way a court is.

When hearing an application for review, the Tribunal can be made up of up to three members, as the President of the Tribunal considers appropriate.

The Tribunal process is designed to be relaxed and informal. There are no wigs and gowns, and lawyers do not usually represent the parties.

Applicants generally represent themselves, but if you want a lawyer to represent you, you must apply to the Tribunal to be legally represented.

If you represent yourself, the Tribunal will help you understand its procedures and how matters are dealt with.

## What powers does the Tribunal have?

The Tribunal has the power to:

- confirm, set aside, or vary the Commissioner's decision
- set aside the Commissioner's decision and substitute its own decision, or
- set aside the Commissioner's decision and return it to the Commissioner to be reconsidered in accordance with directions given by the Tribunal.

The Tribunal also has the power to dismiss your application for review if:

- the Tribunal considers your application frivolous or vexatious
- you have received reasonable notice of the time and place of a proceeding relating to the application and you have failed to appear, or
- if proceedings relating to the application are delayed because of unreasonable actions by you.

## Does the Commissioner's decision stand until a review application is heard by the Tribunal?

Yes. The Tribunal does not have the power to stay (ie. suspend) the Commissioner's decision. This means while the review is in process, the Commissioner's decision remains in force.

The Tribunal cannot stay the Commissioner's decision until it has made its own decision.

So if the Commissioner has issued a negative notice, or refused to cancel such a notice, the Tribunal can not postpone that decision, or any effects flowing from it.

The Commissioner's decision will only be void if and when your application for review is successful, ie. if the Tribunal sets aside the decision to issue a negative notice and order that a positive notice be issued.

## Can you call witnesses or have support people with you at Tribunal hearings?

Yes. You can call witnesses to support your application. You, the Tribunal and the Commissioner (or the Commissioner's representatives) are allowed to ask the witnesses questions.

You can also ask the Tribunal for a support person to be present with you during the proceedings.

This person cannot be a party to the review, represent you or be a witness at the proceedings. They are not allowed to address the Tribunal.

## Is the Tribunal independent?

Yes. The Tribunal is completely independent of the Commission for Children and Young People and Child Guardian.

## What is a preliminary conference?

The Tribunal will usually call a preliminary conference before hearing an application for a review. This is an informal conference where the Tribunal, you and the Commissioner (or representative), discuss your application face-to-face.

At this conference, you can ask questions about the application process, how the Tribunal works and how to prepare your case.

At the conference, be prepared to discuss your application, the material you intend to use and advise which witnesses will be called to support your case.

Also be prepared to explain why you think the Commissioner's decision is wrong.

## What happens at the hearing?

At the hearing, you will be introduced to the members of the Tribunal. They will explain the decision you want reviewed, tell you the facts the Tribunal wants more information or clarification about and explain any legal matters.

The Tribunal will then ask you to present your case. You should be prepared before coming to the hearing, as this will help you better present your case.

## Are the proceedings held in private?

Yes, the proceedings are always held in private, so members of the public who are not involved with your case can not be present.

At the hearing, witnesses usually stay outside the hearing room until called, and leave directly afterwards.

The only people in the hearing room (other than the parties involved and the Tribunal members) will be a Tribunal Officer who operates the recording equipment, calls witnesses and handles paperwork.

## When will the Tribunal make its decision?

The Tribunal makes its decision after considering all issues relevant to your application.

The Tribunal will then prepare full written reasons for its decision, which are provided to you and the Commissioner.

## Can I appeal against a Tribunal decision?

For most applications, the Tribunal's decision is final.

You may be able to appeal against a decision within 28 days of receiving it to the QCAT Appeals Tribunal or the Supreme Court - Court of Appeal in limited circumstances. Such appeals may only be on a question of law, ie. you cannot appeal against questions of fact decided by the Tribunal.

### Queensland Civil and Administrative Tribunal

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Contact us