

Cancel registered training contract by one party

Purpose

This procedure details the process for:

- an application by one party to cancel a registered training contract under the *Further Education and Training Act 2014* (FET Act), and
- re-registering a cancelled training contract following an order by the Queensland Industrial Relations Commission (QIRC) or Fair Work Commission that the employer reinstate an apprentice or trainee's employment.

Overview

A party to the registered training contract (i.e. employer or apprentice/trainee) may apply to cancel the registered training contract –

- **if the party is the employer**—they believe they cannot successfully complete the employer obligations under the registered training contract; OR they believe the apprentice/trainee cannot successfully complete the apprentice/trainee obligations under the registered training contract.
- **if the party is the apprentice/trainee**—they believe they cannot successfully complete the apprentice/trainee obligations under the registered training contract; OR they believe the employer cannot successfully complete the employer obligations under the registered training contract.

A cancellation application by one party can only be made if the apprentice/trainee is still employed by the employer (note - in instances where the apprentice/trainee is no longer employed by the employer, refer to the DESBT procedure [Cancel registered training contracts by chief executive](#) or [Cancel registered training contracts by all parties](#) for assistance with determining the most appropriate course of action).

On receiving an application by one party to cancel the registered training contract, a delegated officer will make a decision to cancel or not cancel the registered training contract, and, if the decision is to cancel the registered training contract, the delegated officer decides the day the cancellation takes effect.

If the apprentice/trainee's employment is terminated, the apprentice/trainee may seek to contest the cessation of employment. As a result, the QIRC or Fair Work Commission may order the employer to reinstate the employment of the apprentice/trainee into their former apprenticeship/traineeship position. When notified of such a case, if the training contract is already cancelled, the cancelled training contract will be re-registered by DESBT.

Process

The party applying to cancel the registered training contract (i.e. the employer or the apprentice/trainee):

- If the apprentice or trainee is still employed by the employer, however a party (i.e. employer or apprentice/trainee) to the registered training contract believes either they or the other party to the contract cannot successfully complete that party's obligations under the registered training contract, the party should:



- discuss the issue/matter with the other party so they are aware of the issue/matter.
- attempt to resolve the issue/matter with the other party.
- request assistance from DESBT to attempt to resolve the issue/matter.
- gather any relevant material and/or documents that support the party's belief that a party to the contract cannot successfully complete their obligation under the registered training contract.
- If the party decides to pursue cancellation under these circumstances, apply in writing to DESBT to cancel the registered training contract stating the reasons for the proposed cancellation and the day the proposed cancellation is to take effect. DESBT will not consider the application unless the reasons and proposed date of effect are included in the application.
 - The proposed cancellation date must not be less than 7 calendar days after the application is given to DESBT.
 - A [Cancel a registered training contract \(on application by one party\) \(ATF-050\)](#) form is available to assist the party apply.
 - **NOTE** – If DESBT decides to support the cancellation of the registered training contract, irrespective of the proposed date of cancellation in the application, DESBT will decide the day the cancellation will take effect.
- If a written notice is received from DESBT asking for further information to assist with the decision making process, the party will be given a period of at least 14 calendar days after the day the notice is given, to comply with the notice.
 - If the party does not respond within the period stated in the notice, DESBT will regard the cancellation application to have been withdrawn by the party and no further action will be undertaken in relation to cancellation of the registered training contract.

Employer:

- Employers are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss employment related obligations.
- Upon receiving a show cause notice from DESBT relating to an application from a party to cancel the registered training contract, provide a written response to the information outlined in the notice if required, by the date stated in the notice.
 - **Note** – Only responses provided by the date stated in the notice will be considered by the delegated officer when making a decision on the application.
- Upon receiving an information notice from DESBT following the show cause process, the employer must comply with the decision. If DESBT decides to cancel the training contract, DESBT will decide the day the cancellation takes effect. The apprenticeship/traineeship of the person who was the apprentice/trainee ends on the day the cancellation takes effect.
- If the training contract is cancelled under section 35D of the FET Act, the decision can be appealed through the QIRC.
- If the employment of the person who was the apprentice/trainee is subsequently terminated following a decision to cancel the training contract, and the employer becomes aware that the apprentice/trainee is contesting the termination of their employment (i.e. a contested event), refer to the below section titled [Contested termination of employment](#) regarding actions the employer must take.

Apprentice/Trainee:

- Apprentices/trainees are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss their employment entitlements.
- Upon receiving a show cause notice from DESBT relating to an application from a party to cancel the registered training contract, provide a written response to the information outlined in the notice if required, by the date stated in the notice.
 - **Note** – Only responses provided by the date stated in the notice will be considered by the delegated officer when making a decision on the application.
- Upon receiving an information notice from DESBT following the show cause process, the apprentice/trainee must comply with the decision. If DESBT decides to cancel the training contract, DESBT will decide the day the cancellation takes effect. The apprenticeship/traineeship ends on the day the cancellation takes effect.
- If the training contract is cancelled under section 35D of the FET Act, the decision can be appealed through the QIRC.



- If employment is subsequently terminated by the employer following a decision to cancel the training contract, and the apprentice/trainee is contesting the termination of their employment (i.e. a contested event), refer to the below section titled [Contested termination of employment](#) regarding actions that must be taken.

Apprentice Connect Australia Provider (Provider) or Racing Queensland Board (RQB):

IMPORTANT – Limitation of delegated authority **MUST** be observed when making a decision whether to cancel a registered training contract. Providers and the RQB do not have delegation to cancel a registered training contract under section 35D of the FET Act. Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

- If notification is received that the apprentice/trainee has commenced (or will be commencing) proceedings contesting the termination of employment (i.e. a contested event), refer to the below section titled [Contested termination of employment](#).
- Upon receiving an application by one party to cancel a registered training contract, if the proposed cancellation date is in the past, verify with one of the parties if the apprentice/trainee is still employed in the workplace (note – it's possible the wrong type of application form has been used. A cancellation by one party application is only applicable when the apprentice/trainee is still employed and one party wants to cancel however the other does not agree). Record details of conversations in File Notes.
 - if it is apparent the cancellation application should not be actioned as a cancellation by one party (e.g. verification supports the apprentice/trainee has left employment), action in accordance with the process required for a cancellation by chief executive or, if possible, a cancellation by all parties.
- Upon receiving an application by one party to cancel a registered training contract, if the proposed cancellation date is recent, in the future, or if there is any uncertainty in determining if the application should be actioned as an application by one party, immediately email the application to DESBT at apprenticeshipsinfo@qld.gov.au using the following naming convention in the subject line of the email for prioritisation:
<CancOneParty> <Registration number> <Apprentice/trainee's surname>.

Training and Skills, Department of Employment, Small Business and Training (DESBT):

- If notification is received that the apprentice/trainee has commenced (or will be commencing) proceedings contesting the termination of employment (i.e. a contested event), refer to the below section titled [Contested termination of employment](#).
- Upon receiving an application by one party to cancel a registered training contract, if the proposed cancellation date is in the past, verify with one of the parties if the apprentice/trainee is still employed in the workplace (note – it's possible the wrong type of application form has been used). Record details in CEDRIC against the training contract.
 - if it is apparent the cancellation application should not be actioned as a cancellation by one party (e.g. verification supports the apprentice/trainee has left employment), action in accordance with the process required for a cancellation by chief executive or, if possible, a cancellation by all parties.
- Upon receiving an application by one party to cancel a registered training contract, if the proposed cancellation date is recent, in the future, or if there is any uncertainty in determining if the application should be actioned as an application by one party, immediately forward the application to a delegated officer – DESBT.

Decision making process for application to cancel a training contract by one party:

Delegated officer – DESBT:

IMPORTANT – Limitation of delegated authority **MUST** be observed when making a decision whether to cancel the registered training contract. Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

- Upon receiving an application by one party to cancel a registered training contract, conduct an investigation into the reasons for the proposed cancellation, or allocate the investigation to an investigating officer – DESBT. If the investigation process is allocated to an investigating officer, the delegated officer

must oversee the investigation, and review and sign off on all written notices, show cause notices and information notices prepared by the investigating officer.

- Cancellation under section 35D of the FET Act must be both justified and proportionate to the circumstance.
- It is important to attempt to preserve the working relationship of the parties.
- A range of factors may impact on the decision of the delegated officer, and these will vary from case to case. Whilst not an exhaustive list of factors and considerations, [Attachment 1](#) may assist in identifying matters that could be scrutinised during an investigation of an application to cancel a registered training contract by one party.
- The investigation into the issue/matter should commence as soon as an application is received by the delegated officer (an application must be in writing), regardless of whether the application contains all the required information. For an application to contain all the required information it must state the reasons for the proposed cancellation and the day the proposed cancellation is to take effect.
- If further information is required to decide the application refer to the section below titled 'Request for further information'.
- Undertake a show cause process, refer to the below section titled 'Show cause process'.
- Provide the apprentice/trainee and/or employer with Fair Work Ombudsman and/or Queensland Training Ombudsman information if considered appropriate (refer to [Attachment 1](#))

Request for further information

Delegated officer – DESBT:

- If further information is required to decide the application, the delegated officer may give the applicant written notice asking for further information reasonably required to decide the application.
- This written notice must be given to the applicant within 21 calendar days after DESBT receives an application by one party to cancel the registered training contract.
- The applicant must be given a reasonable period of at least 14 calendar days to comply with the written notice.
- The delegated officer must consider any information provided by the applicant within this period. If the applicant does not comply with the written notice within the period stated in the notice, the delegated officer is to regard the application to have been withdrawn by the applicant and no further action is required. The delegated officer may give the applicant a written notice stating the application has been withdrawn due to the applicant not complying with the request for further information.

Show cause process

Delegated officer – DESBT:

- Prior to giving a show cause notice, undertake a HR compatibility review (by completing Part A of the *Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) regarding the proposed decision, taking into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
- Send a show cause notice to the parties to the registered training contract stating –
 - that an application has been made under section 35A;
 - the reasons, as stated in the application, for the proposed cancellation;
 - if the chief executive proposes to cancel the contract –
 - the reasons for the decision; and
 - the date the cancellation takes effect (note – even though a show cause process is required, the cancellation date can be prior to the date the decision is made).
 - if the chief executive proposes not to cancel the contract –
 - the reasons for the decision
 - that the party may, within 14 days after the notice is given, give the chief executive a written response to the proposed cancellation.
- Note** – a letter is also available to send to the parent/guardian if applicable and appropriate.
- When the show cause period has elapsed, consider any written responses received from the parties and make a decision (note – if the delegated officer decides to cancel the contract, the delegated officer **must** be satisfied that a party to the registered training contract cannot successfully complete the party's obligations under the registered training contract).



- Undertake a HR compatibility review (by completing Part B of the *Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) regarding the decision, taking into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
- Send each party to the training contract an information notice about the decision.
 - If the decision is to cancel, the information notice must also state the day the cancellation takes effect.
Note – a letter is also available to send to the parent/guardian if applicable and appropriate, and school if applicable.
- Save a copy of the completed Human Rights Compatibility Review Form (Parts A and B) in CEDRIC against the training contract.
- Detailed notes must be recorded in CEDRIC by the delegated officer throughout the investigation into the issue/matter.
- A copy of the application by one party to cancel a registered training contract, the written notice (if applicable), show cause notice and information notice given to the employer and apprentice/trainee (and correspondence given to the parent/guardian and school if applicable), and any other documentation relating to this matter, including any written responses provided by the employer and/or apprentice/trainee, must be saved in CEDRIC against the training contact.

Note – A decision to cancel a registered training contract under section 35D is appealable to the QIRC.

Investigating officer – DESBT:

- A delegated officer – DESBT may decide to allocate the investigation of a one party application to cancel a registered training contract to an investigating officer – DESBT. In these cases, the investigating officer will follow the process as per the delegated officer – DESBT above. The delegated officer will oversee the investigation. The investigating officer will prepare all the written notices, show cause notices and information notices for review and signing off by the delegated officer.

Contested termination of employment

Employer:

- Notify the nominated Provider or DESBT in writing within 14 calendar days if the employer becomes aware the person who is/was the apprentice/trainee has:
 - made an application for unfair dismissal under section 394 of the *Fair Work Act 2009* (C'wlth); or
 - made an application for reinstatement under section 317 of the *Industrial Relations Act 2016*; or
 - commenced another proceeding contesting the cessation of employment.
- Notify DESBT by calling the Apprenticeships Info line on 1800 210 210 as soon as possible after becoming aware of the outcome of such an application/proceeding.

Apprentice/Trainee:

- Notify the nominated Provider or DESBT by calling the Apprenticeships Info line on 1800 210 210 if you:
 - make an application for unfair dismissal under section 394 of the *Fair Work Act 2009* (C'wlth); or
 - make an application for reinstatement under section 317 of the *Industrial Relations Act 2016*; or
 - commence another proceeding contesting the cessation of employment.
- Promptly notify DESBT by calling the Apprenticeships Info line on 1800 210 210 after becoming aware of the outcome of such an application/proceeding.

Apprentice Connect Australia Provider (Provider) or Racing Queensland Board (RQB):

- If the Provider or RQB becomes aware that the person who is/was the apprentice/trainee has made (or will be making) an application or commenced (or will be commencing) a proceeding contesting termination of employment, immediately email DESBT (even if the training contract has already been cancelled) at apprenticeshipsinfo@qld.gov.au using the following naming convention in the subject line of the email to assist prioritisation:
<ContestedEvent> <Registration number> <Apprentice/trainee's surname>
- If the employer or the person who is/was the apprentice/trainee contacts the Provider or RQB in relation to an outcome of such an application/proceeding, redirect the party to contact DESBT by calling the Apprenticeships Info line on 1800 210 210.

Training and Skills, DESBT:



- If DESBT becomes aware that the person who is/was the apprentice/trainee has made (or will be making) an application or commenced (or will be commencing) a proceeding contesting termination of employment, record the details against the training contract in CEDRIC and refer the matter to the relevant DESBT regional office to follow up and monitor the outcome. The DESBT regional office will:
 - If the registered training contract has not yet been cancelled, take no action regarding the cancellation application until the outcome of the contested event is known.
 - If notification is received that the Queensland Industrial Relations Commission (QIRC) or the Fair Work Commission has made an order that the employer reinstate the employment of the apprentice or trainee into their former apprenticeship/traineeship position –
 - i. If the registered training contract has not yet been cancelled (i.e. still active or active-recommencement), no further action is required
 - ii. If the registered training contract has already been cancelled, an appropriately delegated officer – DESBT must oversee the re-registration of the cancelled training contract.
- Note** – Refer to the below section titled [Re-registration of a cancelled training contract](#) for more information.
- If notification is received of an outcome other than above, record the details in CEDRIC against the training contract and take no further action regarding the outcome (i.e. if the training contract is already cancelled no action is required, or if the training contract is still active, continue to action the cancellation as per normal). Examples of other outcomes may be:
 - i. a reinstatement order to another position with the employer; or
 - ii. a reinstatement order to the former apprenticeship/traineeship position that is now with an associated entity of the employer; or
 - iii. an order for the payment of compensation.

Re-registration of a cancelled training contract

Delegated officer – DESBT:

Section 40D of the FET Act provides that an appropriately delegated officer must, as soon as practicable after receiving notification of a decision to reinstate the employment of an apprentice/trainee:

- re-register the apprentice/trainee's training contract; and
- provide each relevant entity (i.e. employer, apprentice/trainee and parent/guardian if applicable and appropriate, the SRTO for the cancelled contract, the school if applicable, and the Provider) written notices stating:
 - that the cancelled training contract has been re-registered as a registered training contract
 - that the nominal term of the re-registered training contract is extended by the period the contract was cancelled before being re-registered
 - the date the nominal term ends taking into account the period of extension
 - that the training plan for the apprentice/trainee under the cancelled training contract continues in force unless the parties enter into a new training plan.

Note – provide details as listed above to the Racing Queensland Board (RQB) for training contracts in the specified racing industry occupations.

- Record the details regarding the order to reinstate employment and the date training recommences against the training contract in CEDRIC.
- Save all associated documentation in CEDRIC against the training contract.
- At a regional level, develop a strategy for monitoring the apprentice/trainee's re-employment, where necessary.

Note – This provision relates to cancellations under Division 6 of the FET Act and therefore does not include registered training contracts cancelled under section 29 of the FET Act, or relate to completion certificates cancelled under section 53 of the FET Act.

Apprentice Connect Australia Provider (Provider) or Racing Queensland Board (RQB):

- If notified by DESBT that a cancelled training contract has been re-registered as a registered training contract, update organisational records accordingly.



Definitions

AIRDOCS	A system used by DESBT for letter templates which are subsequently generated through DELTA.
Apprentice Connect Australia Provider	Apprentice Connect Australia Providers (Providers), also known as Providers, are contracted by the Australian Government to provide targeted services which deliver tailored advice and support to employers, apprentices and trainees. Providers also have an agreement with DESBT to provide training contract related services. The Provider is the first point of contact for the administration of all training contracts.
CEDRIC	A Client Relationship Management system used by DESBT to capture information on client and stakeholder engagement and correspondence (for internal access only).
Contested event	A 'contested event' means the apprentice/trainee is claiming unfair dismissal or seeking reinstatement of their employment (not just remuneration).
Days	Where a timeframe is expressed in days, the reference is to calendar days. Seven (7) calendar days, in relation to the day nominated by the party making the application to cancel the training contract that the proposed cancellation is to take effect is calculated as – date the FULLY COMPLETE application is received by DESBT is 0, then count 7 days, and on day 7 is the earliest day that the proposed cancellation can take effect. Similar calculations apply to 14 calendar and 21 calendar day timeframes.
Delegated officer	An appropriately qualified person to whom the chief executive has delegated functions and powers.
DELTA	Direct Entry Level Training Administration – DESBT's database of registered apprentices and trainees (for internal access only).
DESBT	Department of Employment, Small Business and Training
QIRC	Queensland Industrial Relations Commission
Racing Queensland Board	The Racing Queensland Board (RQB) is the statutory control body for the thoroughbred, harness, and greyhound codes of racing in Queensland with responsibility for the management of these codes. The RQB has an agreement with DESBT to provide training contract related services for training contracts in these codes of racing for the following industry specific occupation – <ul style="list-style-type: none"> • Stablehand traineeship • Trackrider traineeship • Advanced stablehand traineeship • Jockey apprenticeship.
Supervising registered training organisation (SRTO)	Is a registered training organisation that: <ol style="list-style-type: none"> 1. accepts a nomination to deliver training and assessment to apprentices or trainees as negotiated and agreed under individual training plans; 2. assesses an employer's capacity to provide the supervision, facilities and training required under the training plan for an apprentice or trainee; 3. assesses whether the apprentice or trainee has completed the training and assessment required to be completed under a training plan; and 4. when satisfied the apprentice or trainee has completed the training and assessment required, issues the qualification or statement of attainment stated in the training plan, and is a signatory on a completion agreement verifying that all training and assessment required under the training plan has been completed by the apprentice or trainee.

Legislation

- [Further Education and Training Act 2014](#) – Sections 35A to 35E, 40A to 40D, 58 and 58A, 168

Delegations/Authorisations

- [Director-General's delegations under the Further Education and Training Act 2014](#)

- [Executive Director's sub-delegations under the Further Education and Training Act 2014](#)

Related policies

- [Declaration of apprenticeships and traineeships in Queensland policy](#)
- [Electronic signing policy for apprenticeships and traineeships in Queensland](#)

Related procedures

- [Adequate training arrangements](#)
- [Cancel registered training contracts by all parties](#)
- [Cancel registered training contracts by chief executive](#)
- [Transfer of registered training contracts – permanent or temporary](#)

Supporting information/websites

Agreements (internal resources)

- Protocols between DESBT and Providers
- Protocols between DESBT and Racing Queensland Board
- Services Agreement between DESBT and Providers
- Agreement between DESBT and Racing Queensland Board

Forms

- [Cancel a registered training contract \(by one party\) – ATF-050](#)
- **SharePoint** – HR compatibility review form – Show Cause notice (*Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) (DESBT)

Work instructions

- Cancel a training contract by one party (DESBT)

Providers can access Provider Work Instructions at this [internal web site](#).

DESBT officers can access DESBT Work Instructions at this [internal website](#).

RQB officers can access RQB Work Instruction at this [internal website](#).

Online materials

- **SharePoint** – Guide to the show cause process and evidence based decision making (DESBT)

Letters

- DocumentsCorePack – Cancel application, one party – 35C – show cause, cancel (DESBT employees only)
- DocumentsCorePack – Cancel application, one party – 35C – show cause, NOT cancel (DESBT employees only)
- DocumentsCorePack – Cancel application, one party – 35D – information notice, cancel (DESBT employees only)
- DocumentsCorePack – Cancel application, one party – 35D – information notice, not cancelled (DESBT employees only)
- DocumentsCorePack – Request information from applicant – APP-TNEE – 32B, 35B, 82B (DESBT employees only)
- DocumentsCorePack – Request information from applicant – EMP – 32B, 35B, 82B (DESBT employees only)
- DocumentsCorePack – Notice – 32B, 35B, 82B – application withdrawn – APP-TNEE (DESBT employees only)
- DocumentsCorePack – Notice – 32B, 35B, 82B – application withdrawn – EMP (DESBT employees only)
- DocumentsCorePack – Reinstate Training Contract to Active (DESBT employees only)

Website

- Human Rights: www.qld.gov.au/law/your-rights/human-rights



Contact

For further information, please contact Apprenticeships Info:

- **Website:** www.desbt.qld.gov.au
- **Telephone:** 1800 210 210
- **Email:** apprenticeshipsinfo@qld.gov.au



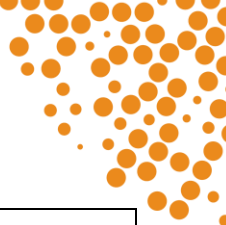


Attachment 1

Factors to be considered in decision making process

A range of factors may impact on the decision of the delegated officer and these will vary from case to case. Whilst this is not an exhaustive list of factors and considerations, the information below may assist in identifying matters that could be scrutinised in an investigation into an application to cancel the registered training contract submitted by one of the parties to the contract.

Factor	Consideration
Has the application been received in writing?	<p>There must be a written application from the party (i.e. the employer or apprentice/trainee), which must state the following –</p> <ul style="list-style-type: none"> ○ the reasons for the proposed cancellation; ○ the day the proposed cancellation is to take effect, being not less than 7 days after the application is given to the chief executive; and ○ may include material in support of the application. <p>The FET Act requires that the application be in writing, and DESBT has developed a form template to assist the applicant to provide all the required information. The applicant is not required to use the available template, but they must provide all the required information in writing, under signature (which includes, for example, by electronic signature).</p>
What if the proposed date of cancellation is less than 7 days after the application is given to the chief executive?	<p>The intent of the 7 calendar days is to provide some separation between the date the party makes the written application and the date the party proposes the cancellation take effect, to ensure applications are not being made impulsively.</p> <p>If the proposed date of cancellation is less than 7 calendar days after the application is given to the chief executive, the FET Act provides a provision to request further information.</p>
Are the reasons relevant?	<p>Determine if any of the reasons given impact a party's ability to meet their obligations under the registered training contract.</p> <p>An apprentice/trainee's obligations under the registered training contract are:</p> <ul style="list-style-type: none"> ○ attend work, do his or her job and follow the employer's lawful instructions; and ○ work towards achieving the qualification or statement of attainment stated in the contract; and ○ undertake the training and assessment required under the apprentice's or trainee's training plan. <p>An employer's obligations under the registered training contract are:</p> <ul style="list-style-type: none"> ○ provide supervision, facilities and training; and ○ not prevent the apprentice/trainee from participating in training; and ○ to report notifiable events.
What might affect an officer's decision to NOT cancel under section 35D?	<p>Depending on the reasons provided by the party for the proposed cancellation, it may be feasible to –</p> <ul style="list-style-type: none"> ○ assist the parties with a permanent or temporary transfer of the registered training contract ○ provide mediation, suggest strategies and monitor behavioural issues. <p>Depending on the proposed date of cancellation indicated on the written application (e.g. the date may be in the past), and/or if the apprentice/trainee is still employed by the employer, it's possible the wrong type of application form has been used and cancellation should proceed under another section of the FET Act.</p>



Factor	Consideration
<p>What formal or informal discussions regarding the issues have there been?</p>	<p>Request any evidence available that supports discussions of issues either in a formal or informal manner, for example – diary notes, formal letters, warnings, reprimands and/or minutes from meetings. Are these confirmed by the other party?</p> <p>It is important to consider if a process was adopted leading up to the application for cancellation that afforded the respective party an opportunity to address the identified issues.</p>
<p>Compliance with award or industrial agreements by employer?</p>	<p>In some cases, there may be specific requirements in the relevant award or industrial agreement that will need to be addressed with the employer. An explanation on how the employer has met the requirement should also be obtained.</p>
<p>Are there any alleged significant breaches of the employment contract, employee standards of behaviour or occupational health and safety requirements?</p>	<p>If significant breaches are alleged that involve other legislation, determine if this has been referred to the relevant authorities. If so, establish if a determination is being made under the relevant legislation. Whilst it is not the role of DESBT to decide or prosecute offences under other legislation, the outcome of any prosecution or action may be taken into account if it is either relevant to the workplace or relevant when establishing if meeting the requirements of the registered training contract. For example, if the employer or apprentice/trainee was successfully prosecuted or fined for a breach of occupational health and safety laws. It should be noted that a prosecution may not be finalised at the time of considering an application, and accordingly a statement that a person is likely to be charged under certain legislation is not evidence by itself and the specific circumstances would need to be considered in more detail.</p>
<p>Would a decision to cancel be a proportionate response to the specific issues?</p>	<p>Ultimately, it is important that due process is followed to allow all parties an opportunity to make a submission and for any submission received to be considered before making a decision on the application. For example, for a minor matter on the first occasion, a warning letter is likely to be a more proportionate outcome than a cancellation.</p>
<p>If advice is received in writing on a cancellation by one party application form however the proposed date of cancellation is within the probationary period, is this a cancellation under section 35D or a withdrawal in probationary period?</p>	<p>If the apprenticeship/traineeship has ended before the end of the probationary period, process as a withdrawal during the probationary period even if the advice was received in writing on a cancellation by one party application form.</p>
<p>When would it be appropriate to provide the apprentice/trainee and/or employer with Fair Work Ombudsman and/or Queensland Training Ombudsman information?</p>	<p>If an employer or employee requires advice or guidance regarding work related matters, for example, pay and entitlements or resolving workplace issues, the Fair Work Ombudsman can be contact by:</p> <ul style="list-style-type: none"> • Web: www.fairwork.gov.au • Telephone: 13 13 94 <p>If any party to the training contract disagrees with a decision, they may contact the Queensland Training Ombudsman who will conduct a review of the decision and, if necessary, make a recommendation to DESBT if it is seen that a delegated officer has not followed the correct process. The Queensland Training Ombudsman can be contacted by:</p> <ul style="list-style-type: none"> • Telephone: 1800 773 048 • Email: info@trainingombudsman.qld.gov.au • Web: www.trainingombudsman.qld.gov.au