

Discipline – fines and reprimand

Purpose

This procedure details the process a delegated officer follows regarding disciplinary actions that may be taken when a party has contravened the *Further Education and Training Act 2014* (FET Act) or the apprenticeship/traineeship training contract, or is found to have engaged in misconduct (as defined in section 41 of the FET Act).

Overview

The FET Act describes disciplinary actions that can be imposed when a party (employer, apprentice or trainee) has contravened the FET Act or the training contract, or engaged in misconduct.

Whilst it is the ultimate aim of the department for training contracts to culminate in a successful completion, if the issue only relates to an employment matter (i.e. no linkage to any training related matters under the apprenticeship/traineeship) a delegated officer cannot impose disciplinary measures. A delegated officer can only impose disciplinary measures for training related issues associated with the registered training contract or the FET Act, or for misconduct as defined in section 41 of the FET Act.

Process

Employer and apprentice/trainee:

- Employers and apprentices/trainees are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss employment related issues.
- Upon receiving a show cause notice from the Department of Employment, Small Business and Training (DESBT) proposing to make an order reprimanding a party, or directing a party to pay a fine, 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 proposed order.
- Upon receiving an information notice from DESBT, the employer and/or apprentice/trainee must comply with the decision.
- If an order is made under section 42(2) of the FET Act, the decision can be appealed through the Queensland Industrial Relations Commission (QIRC).

Apprentice Connect Australia Provider (Provider), or Racing Queensland Board (RQB) (for specified racing industry occupations):

IMPORTANT – Limitation of delegated authority **MUST** be observed. Providers and the RQB do not have delegation to impose discipline as described in sections 41 to 44 of the FET Act. Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

Delegated officer – Training and Skills, DESBT

- If appropriate, attempt to resolve the issue/s by providing education about the obligations under the FET Act.
- Consider the severity and frequency of any previous actions including situations where the party is failing, or has failed, to comply with their obligations under the FET Act, and decide appropriate disciplinary action/s against the party who may have contravened the FET Act or the training contract, or engaged in misconduct.



Reprimanding the Party – 42(2)(a)

When proposing to **reprimand the party**, a show cause notice must be issued.

- Prior to giving a show cause notice, undertake an 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](#).
 - Throughout the show cause process, consider the following:
 - If there is opposition from all parties to the proposed action, re-evaluate the evidence.
 - Where new valid information or evidence is presented, consider if sufficient grounds exist to warrant a change to the proposed action.
 - If there is a dispute between the parties regarding the imposition of the proposed action, evaluate the reasons provided and re-assess.
 - If support for the proposed action is received from all parties, or there is a NIL response, proceed to implement the action.
- Send a show cause notice to the parties to the registered training contract stating –
 - the order the chief executive proposes to make; and
 - the reasons for the proposed order; and
 - that the party may, within 14 days after the notice is given, give the chief executive a written response to the proposed order.

Note – a letter is also available to send to the parent/guardian if applicable.
- When the show cause period has elapsed, consider any written responses received from the parties and make a decision.
- Undertake an 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](#).
- Notify the parties to the registered training contract of the decision –
 - if the decision is not to proceed with the proposed action, provide written notices, or
 - if the decision is to make an order reprimanding the party under s42(2)(a) provide information notices.

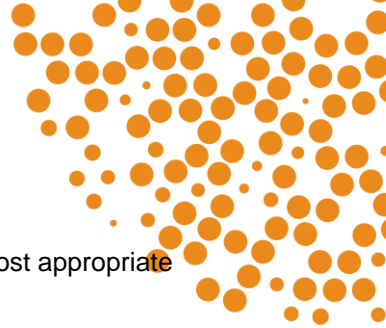
Note – a letter is also available to send to the parent/guardian, if applicable.

Issuing a fine – 42(2)(b)

- Where the proposed decision is to make an order directing the party to pay an amount of money (a fine), prepare a submission outlining the reasons that a fine is regarded as the most appropriate disciplinary action, and the monetary penalty that is being proposed (this may be a portion of the maximum four penalty units). This action must be supported by the region's Regional Director.
- Email the submission to the Queensland Apprenticeship and Traineeship Office (QATO) at OPRA@desbt.qld.gov.au detailing the recommendation.
- If the issuing of a fine is supported by QATO, QATO will undertake the show cause process regarding the proposed action, and issue the parties with information notices regarding the decision. A copy of the information notices will also be provided to the region. On receipt of a copy of the information notice, create an invoice – refer to 'Create an Invoice – Procedure for Field Officers'.
- If the issuing of a fine is not supported by QATO, QATO will advise the region of the decision and the reason/s why a fine is not supported. Take alternative action if appropriate (e.g. reprimand the party).
- When recording notes on DELTA relating to reprimands and fines, ensure information is sufficient in the context of creating a history to manage any subsequent acts of misconduct, or contravention of the FET Act or the training contract.

Note – An order to reprimand a party or direct a party to pay an amount of money under section 42(2) of the FET Act is appealable to the QIRC.

Queensland Apprenticeship and Traineeship Office (QATO), DESBT – issuing a fine – 42(2)(b):



The Director, QATO considers the submission from the region, and decides if a fine is the most appropriate disciplinary action to be taken.

If a submission from the region to issue a fine is not supported, advise the region of the decision and the reason/s why a fine is not supported, so the region can take alternative action.

If a submission from the region to issue a fine is supported, a show cause notice must be issued.

- Prior to giving a show cause notice, undertake an 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 –
 - the order the chief executive proposes to make; and
 - the reasons for the proposed order; and
 - that the party may, within 14 days after the notice is given, give the chief executive a written response to the proposed order.

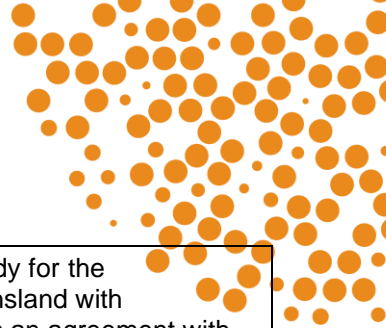
Note – a letter is also available to send to the parent/guardian if applicable.
- When the show cause period has elapsed, consider any written responses received from the parties and make a decision.
- Undertake an HR compatibility review (by completing Part B of the *Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) regarding the decision, taking into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
- Notify the parties to the registered training contract of the decision –
 - if the decision is not to proceed with the proposed action, provide written notices, or
 - if the decision is to make an order directing the party to pay an amount (a fine) under s42(2)(b), provide information notices.

Note – a letter is also available to send to the parent/guardian if applicable.
- Notify the region of the decision –
 - If the decision is not to proceed with the proposed action, advise the region of the decision and the reason/s why a fine is not supported, so the region can take alternative action.
 - If the decision is to make an order directing the party to pay an amount (a fine), forward a copy of the information notice to the region for preparation of an invoice.

Note – An order to reprimand a party or direct a party to pay an amount of money under section 42(2) of the FET Act is appealable to the QIRC.

Definitions

CEDRIC	A Client Relationship Management system used by DESBT to capture information on client and stakeholder engagement and correspondence (for internal access only).
Delegated officer	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
DESBT	Department of Employment, Small Business and Training
Order	An authoritative instruction outlining the disciplinary action of a reprimand, or directing a party to pay an amount of money to the chief executive.
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 occupations – <ul style="list-style-type: none">• Stablehand traineeship• Trackrider traineeship• Advanced stablehand traineeship• Jockey apprenticeship.
Reprimand	A rebuke for inappropriate action, generally applied in cases of minor misconduct and for first offences of a minor nature.

Legislation

- [Further Education and Training Act 2014](#) Sections 41 to 44, 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

- Nil

Related procedures

- [False and misleading information](#)

Supporting information/websites

Agreements

- Nil

Forms

- **SharePoint** – HR compatibility review form – Show Cause notice (*Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) (DESBT)

Work instructions

- Nil

Online materials

- [SharePoint: Create an Invoice](#) (DESBT employees only)
- [SharePoint: Guide to show cause process and evidence based decision making](#) (DESBT employees only)

Letters

- DocumentsCorePack – Discipline – Information notice - EMP-APP-Parent (DESBT employees only)
- DocumentsCorePack – Discipline – show cause - EMP-APP-Parent (DESBT employees only)
- DocumentsCorePack – Discipline – written notice – not proceed – EMP-APP-Parent (DESBT employees only)

Website

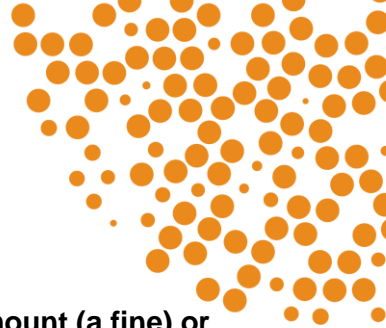
- Human Rights: www.qld.gov.au/law/your-rights/human-rights

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 when making an order directing a party to pay an amount (a fine) or reprimanding a party

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 with taking the most appropriate action.

Factor	Consideration
Is the issue an employment related issue or a training related issue?	<p>If the issue relates to misconduct, if the employee was not an apprentice/trainee, how would the employer deal with it?</p> <p>If the issue is not addressed, will it impact the achievement of competence of any of the units of competency on the training plan?</p> <p>Whilst it is the ultimate aim of the department for training contracts to culminate in a successful completion, if the issue only relates to an employment related matter (e.g. apprentice/trainee is doing burn outs in the car park every morning), it is important to ensure the delegated officer only imposes disciplinary measures for training related issues associated with the registered training contract or the FET Act, or for misconduct as defined in section 41 of the FET Act. A departmental officer may act as a moderator to assist the parties resolve issues that are employment related as this will support the continuation of the training contract, however the officer cannot make an order under the FET Act for employment related issues.</p>
What evidence of formal or informal discussions regarding the issue has there been between the parties to try and resolve the issue between the parties, before engaging the department?	Request any evidence available that supports discussions of the issue either in a formal or informal manner e.g. diary notes, formal letters, warnings, reprimands and/or minuted meetings. Are these confirmed by the other party?
Is this the first time this issue has occurred?	<p>Review all information/evidence on CEDRIC (and DELTA Contacts for historical information) to determine if the department has engaged with the party previously regarding the same issue, and if so, how often and how long ago.</p> <p>What actions (if applicable) did the department impose previously to address the issue?</p> <p>Was a process adopted leading up to the decision to reprimand/recommend a fine that afforded the party an opportunity to address the identified issue?</p>
Would a decision to direct a party to pay an amount be a proportionate response to the specific issue?	<p>Ensure the decision is a proportionate outcome given the circumstances e.g. for a minor matter on the first occasion, reprimanding the party is a more proportionate outcome than a fine.</p> <p>If proposing to impose a fine, it is important to take into account the severity of the issue to determine the amount the party will be directed to pay (maximum penalty is 4 penalty units).</p>

