

ST Vic Disciplinary Process Fact-Sheet

What is a disciplinary process?

A disciplinary is a formal process that is initiated under law by Safe Transport Vic (ST Vic) under law, that may affect your Driver Accreditation (DA) or Driving Instructor Authority (DIA) or an application you have made for one of these products. You must take any notice we send you seriously.

Understanding notices:

Applicants:

Application for Issue of Driver Accreditation/ Driving Instructor Authority

If you have received a letter titled "Application for Issue of Driver Accreditation" or "Application for Issue of Driving Instructor Authority", this means that ST Vic has concerns around your application for DA or DIA. Concerns can range from: criminal history, pending criminal charges, medical fitness or any other matter ST Vic is concerned with that directly relates to your fitness to work within the commercial passenger vehicle, bus or driving instructor industries. The notice will:

- Specify the concerns we have
- Outline relevant legislation
- Invite you to make a submission by a due date.

The potential outcomes of this notice are Approval (with or without conditions), or Refusal.

Approval of Application

If you have received a letter titled "Approval of application for Driver Accreditation" or "Approval of application for Driving Instructor Authority", this means that ST Vic has arrived at a decision about the concerns outlined in our previous letter, and have decided that you meet the standard required to hold accreditation. An approval letter will not contain the written reasons for our decision, but these are available on request.

ST Vic can also impose conditions when approving an application. This typically takes the form of requiring the applicant to complete a course of training to ensure they can meet industry standards. The letter will explain why this condition is necessary, with regards to the relevant legislation.

Refusal of Application

If you have received a letter titled "Refusal of application for Driver Accreditation" or "Refusal of application for Driving Instructor Authority", this means that Safe Transport Victoria has arrived at a decision about the concerns outlined in our previous letter, and have decided that you do not meet the standard required to hold accreditation. In arriving at a decision, we take into consideration any submissions you have made, what our concerns are, relevant legislation and the relevance to your ability to hold an accreditation or authority. The Refusal of Application will:

- Outline the concerns we had
- Outline relevant legislation
- Analyse any submissions made by you
- Provide the reasons why a decision has been made
- State any period of disqualification

Mandatory Refusal of Application

In some instances, ST Vic is required by law to refuse an application for Driver Accreditation, without providing the applicant with an opportunity to address our concerns. This happens if an applicant has been found guilty of certain serious criminal offences (i.e. murder, rape, make threat to kill).

If your application has been refused on these grounds, this decision can only be reviewed by the Victorian Civil and Administrative Tribunal (VCAT).

Accreditation Holders

Notice of Proposed Disciplinary Action

If you have received a letter titled "Notice of Proposed Disciplinary Action", this means that ST Vic has concerns around your ability to hold Driver Accreditation or Driver Instructor Authority. Concerns can range from: criminal history, pending criminal charges, medical fitness or any other matter ST Vic is concerned with that directly relates to your work within the commercial passenger vehicle, bus or driving instructor industries. The notice will:

- Specify the concerns we have
- Outline relevant legislation
- Propose a course of disciplinary action we are considering
- Invite you to make a submission by a due date.

You may choose to speak to a solicitor or community law centre for advice about this notice.

Notice of Decision

If you have received a letter titled 'Notice of Decision', this means that Safe Transport Victoria has arrived at a decision about the concerns outlined in the previous "Notice of Proposed Disciplinary Action". In arriving at a decision, we take into consideration any submissions you have made, what our concerns are, relevant legislation and the relevance to your ability to hold an accreditation or authority. The Notice of Decision will:

- Outline the concerns we had
- Outline relevant legislation
- Analyse any submissions made by you
- Provide the reasons why a decision has been made
- States the decision made

Mandatory Suspension or Cancellation Notice

If you have received either a Mandatory Suspension or Mandatory Cancellation notice from us, this decision can not be overturned by Safe Transport Victoria. This is because the law states that certain offences (i.e make threat to kill, murder, rape) must be issued with a prescribed outcome.

You can only have these matters overturned by the VCAT.

Notice of Immediate Suspension

If you have received a "Notice of Immediate Suspension" from us, this is because we have a formed a reasonable belief that a concern exists that would pose an immediate risk to the public or the serious misconduct has occurred. You can not apply for an internal review of the decision to issue you this notice.

A "Notice of Immediate Suspension" will be accompanied with a "Notice of Proposed Disciplinary Action".

This part of the notice is reviewable.

Making a submission

If you are issued with a "Notice of Proposed Disciplinary Action" or an "Application for Issue of Driver Accreditation/ Driving Instructor Authority", you will be invited to make a submission to state your case. Your submission could consist of:

- Providing the decision maker with enough information to make an informed decision
- Providing references (it is more favourable if the referee states they understand why they are making the reference).
- Providing evidence to support your case.

You must make any submission by the due date stated within the notice. If you need more time, you can make a request for a time extension.

Please be aware, if you have been found guilty of more serious offending, ST Vic may be required to refuse your application if you do not provide a submission.

Our Approach

Our decision makers are Delegates under various legislation to make a decision on your case. We will make our decisions:

- Without bias
- Applying the principles of natural justice
- Considering all relevant information
- Taking into consideration your submission
- Applying the elements set by legislation

I believe my Criminal History Record is incorrect

Safe Transport Victoria acts upon the information it received from Victoria Police and the Australian Criminal Intelligence Commission. If you disagree with your criminal history record, you must follow the instructions laid out on your Notice to contest this.

Medical

Safe Transport Victoria employs the Austroads "Assessing Fitness to Drive" national commercial driver medical standards, which clearly lay out the medical standards drivers must reach, and what reports we require at which frequency to ensure this remains the case.

Notice of Proposed Disciplinary Action

Safe Transport Victoria may issue you with a "Notice of Proposed Disciplinary Action" if you have failed to comply with your medical reporting requirements through the normal channels, or if we have recently become aware of a medical condition that could compromise your ability to safely drive commercial passenger vehicles. This notice will lay out:

- Why we are concerned you are not sufficiently fit and healthy
- The commercial medical standard you must meet to continue holding driver accreditation
- What report/s you will need to provide, from which GP or specialist, and what that report must address.
- The proposed disciplinary action if you do not provide the requested report/s.

Notice of Decision

If you receive a "Notice of Decision regarding Disciplinary Action", this means that Safe Transport Victoria has arrived at a decision on our concerns as laid out in our previous "Notice of Proposed Disciplinary Action". In arriving at a decision, we assess whether or not you now meet the relevant medical standards laid out in the Austroads "Assessing Fitness to Drive" document. We will consider:

- Any medical reports submitted by you
- Any relevant legislation
- The advice of our independent medical panel, where necessary.

If you now meet the required medical standards, we will advise as much, and let you know if/when further medical reports are due.

If you do not meet the standards, your accreditation will typically be cancelled, and you will need to provide reports proving you now meet the medical standards if you reapply.

Notice of Immediate Suspension

If you have received a "Notice of Immediate Suspension" alongside your "Notice of Proposed Disciplinary Action" from us, this is because we have formed a reasonable belief that a concern exists that would pose an immediate risk to the public. This is typically if we become aware of a recent medical event that would prevent you from driving commercial passenger vehicles for a period (i.e. recent surgery, recent heart attack, epileptic fit). You cannot apply for an internal review of the decision to issue you this notice.

F.A.Q.

Finding of guilt vs Convictions

We understand that the court process can be confusing. Generally, if you have been to court over a criminal matter and that charge was not struck out/withdrawn, squashed, not proven or dismissed, you will likely have a finding of guilt for that charge.

If a court sentences you without a conviction, this still means you have been found guilty of that offence.

If court sentences you with a conviction, this means you have been found guilty of that offence.

Will I lose my Accreditation or Authority?

Receiving a Notice of Proposed Disciplinary Action from us is serious and could result in the loss of your Accreditation or Authority. The disciplinary action we are proposing will be present on the notice.

Can a decision be reviewed?

In most instances our decision can be reviewed, however:

- If you have been mandatory refused or cancelled, you cannot seek internal review, regardless of any other circumstances. You must make an application to the Victorian Civil and Administrative Tribunal to have our decision reviewed. www.vcat.vic.gov.au
- You can make an application for internal review for other decisions. This means a new decision maker will look at all the facts of your case before making a fresh decision. The application for internal review can be found at: www.safetransport.vic.gov.au
- If you are a Driving Instructor, you must make an application to have the decision reviewed by the Magistrates Court. www.mcv.vic.gov.au

Support

We acknowledge that going through a disciplinary process can be a stressful time. You may consider reaching out the support services:

- Your Booking Service Provider or Bus Company, where applicable
- Legal Aid or a Solicitor
- Beyond Blue – 1300 22 4636
- Lifeline – 13 1114
- Qlife (for LGBTIQ+ community) – 1800 184 527