

## **COMPLAINANT - MEDICAL PANEL HEARING**

The Victorian Institute of Teaching (the Institute) holds a Medical Panel hearing to determine whether a registered teacher's ability to practise as a teacher is seriously detrimentally affected or likely to be seriously detrimentally affected because of impairment or if the ability to the teacher to practise as a teacher is not affected. The hearing is informal and in the nature of an inquiry.

### **THE PANEL**

The Institute appoints a Panel to conduct the Medical Panel hearing. The Panel consists of at least three people of whom:

- one must be a person who has been admitted to legal practice in Victoria for not less than 5 years
- one must be a medical practitioner or psychologist registered under the National Health Registration Law
- one must be a registered teacher.

### **THE HEARING**

#### **Notice of the hearing**

You and the teacher will be advised of the nature of the complaint and the date, time and place of the Medical Panel hearing in a Notice of Medical Panel hearing from the Institute. The teacher will be sent copies of all relevant documents, including copies of any relevant documents supplied by you to the Institute.

#### **Representation**

The teacher has the right to be present, to be represented and to make submissions at the hearing. The teacher can be represented by a legal practitioner, a union official, a friend or any other person. The teacher is also entitled to be accompanied by another person.

You are not entitled to be present during the hearing; however you may be asked to attend as a witness to give evidence. If you are not asked to be a witness, you may make a submission if the Panel has given permission.

#### **The procedure of the hearing**

The *Education and Training Reform Act 2006* provides that the:

- hearing is closed to the public
- procedure is at the discretion of the Panel
- proceedings are to be conducted with as little formality and technicality as possible
- Panel is not bound by the rules of evidence and may inform itself as it thinks fit
- Panel is bound by the rules of natural justice.

Hearings are conducted as informally as possible, although there will be some structure to the hearing process to ensure compliance with the rules of natural justice. The proceedings will be inquisitorial – a process of investigation.

### **The conduct of the hearing**

The hearing will be conducted with all participants sitting around a table.

If there are witnesses they will wait outside the hearing room until asked to give evidence.

The Chairperson of the Panel and the Panel members will introduce themselves and ask participants to introduce themselves.

The Chairperson of the Panel will explain the process of the hearing and outline the issues to be addressed.

The teacher or the teacher's legal representative may provide a submission to the Panel and any further documents in support of his or her case.

Witnesses will give their evidence and may be questioned by the teacher or the teacher's legal representative and the Panel.

You may provide a submission if the Panel has given permission.

The teacher or the teacher's legal representative may give a closing submission.

### **Referral to a health assessment**

The Panel may at any time during the hearing direct a teacher to undergo a health assessment. The teacher must be assessed by a registered health practitioner appointed by the Panel, who must give a report of his or her assessment to the Panel. The Panel may discuss the report and any adverse findings in the report with the teacher. The Institute must pay for the assessment.

### **Referral to a formal hearing**

The Panel must refer a matter to a formal hearing if the Panel is of the opinion that the teacher's ability to practise as a teacher is affected to such an extent there is a reasonable likelihood that a formal hearing panel may cancel the registration of the teacher.

A Panel may also refer a matter to a formal hearing if the Panel is of the opinion that the teacher is seriously incompetent or has engaged in misconduct or serious misconduct.

### **THE PANEL'S DECISION**

The Panel may:

- decide the teacher's ability to practise is not affected
- impose conditions on the teacher's registration
- suspend the teacher's registration for a period with or without conditions.

### **The decision and reasons**

Within 28 days of the Panel making its decision, it will send a copy of the decision and reasons to you and the teacher.

## **FURTHER INFORMATION**

The Institute also has other information brochures available on:

- complaints
- an employer taking action against a teacher
- the investigation
- the informal hearing process
- appeals to the Victorian Civil and Administrative Tribunal
- witnesses
- sexual offences
- indictable offences
- the rules of natural justice

## **CONTACTS**

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