What is the process of a review?

The review process is outlined in Sections 539 to 547 of the Workers’ Compensation and Rehabilitation Act 2003. You can find this legislation online at [legislation.qld.gov.au](https://www.legislation.qld.gov.au).

The legislation provides for a prompt and non-adversarial process, and will not be an investigation that replaces the Insurer’s investigation of the claim. The review is conducted ‘on the papers’—this means a review of the Insurer’s decision using the evidence available to the Insurer at the time of their decision. The Review Officer will conduct an independent review of the Insurer’s decision using the Insurer file, grounds for review provided with the application for review and any submissions made by the Applicant for review.

The Regulator does not re-investigate matters, which means that we will not request further information from you. This is because, as the regulatory authority, the Regulator must remain impartial and cannot request, or suggest a party provide particular information that may have an effect on the review. However, if further information is needed to clarify an issue in order to make a decision, we will ask the Insurer to obtain it.

The review decision regarding the application for review is due 25 business days after it is lodged, unless the Applicant agrees to an extension of the timeframe. The decision is communicated in writing, and must be sent to all parties within 10 business days of the decision being made about your review.

Types of decisions

The decisions that the Regulator can make are:

- **Confirm** – the Insurer’s decision does not change.
- **Vary** – the Insurer’s decision is varied.
- **Set aside** – the Insurer’s decision is changed and the Insurer will take the necessary action.
- **Set aside undecided** – the Insurer’s decision is set aside and the matter returned to them with specific instructions they must undertake prior to making a fresh decision.

Right of appearance

A Right of Appearance is the opportunity for the applicant to highlight matters they consider support their application for review or expand upon their grounds for review. This is commonly referred to as making submissions.

Your submissions can be made in the manner most appropriate to you such as, by telephone or in person by making an appointment to meet with the Review Officer.

The Right of Appearance is not an investigative process or an opportunity to provide oral evidence and the Review Officer will not take a statement from you or make judgments of credit. It is an opportunity to put forward your view on how you consider the evidence should be interpreted. If you have a particular issue or submission you wish to make clear it may be beneficial to also provide this in writing, for the Review Officer’s later consideration. Likewise, should you have new evidence, such as a further statement from yourself or another witness, these should be provided in writing.

When making first contact with you the Review Officer will ask whether you wish to exercise your right of appearance. At this time you should advise whether you wish to have a right of appearance and, if so, how you wish to appear – i.e. by telephone or in person.

If wishing to meet with the Review Officer a suitable time will be arranged for you to attend the Regulator’s premises at 347 Ann Street, Brisbane.

The Regulator undertakes the Right of Appearance in a polite, professional and non adversarial manner and as such expects that attendees behave accordingly. Contrary behaviour, threats or abusive language may lead to early termination of the Right of Appearance.
What you need to know about a Workers’ Compensation Regulator review

Some common questions:

**How long does a right of appearance take?**

Depending upon the extent of the submissions being made and how they are being given, a right of appearance can vary between ten minutes up to an hour.

**Can I attend anywhere else other than Brisbane?**

Unfortunately, no. The Regulator’s premises are located in Brisbane, as are the Review Unit and Review Officers.

**Can I bring a support person?**

Yes, a support person attending with an applicant is a common occurrence and welcomed by the Regulator, though it is requested that you advise if anyone will be accompanying you in advance to ensure adequate facilities for the meeting are available.

**What should I bring?**

If you have new documentary evidence you wish to rely on, or specific written submissions, copies of these can be provided to the Review Officer during the appearance.

**What if I need more time to provide submissions?**

The legislation enables only the Applicant to make submissions with their application for review. If the Applicant would like to provide more information, but needs additional time to do so, they can request an extension by informing the Review Officer what they intend to provide, by when, and how this will be of benefit to the review decision.

This information will be considered and you will receive an outcome to the extension request in writing. Please note all submissions should be gathered within the three month timeframe to lodge a review and submitted with the application for review form.

**Burden of proof**

The burden of proof is on the worker to show facts that entitle them to the payment of compensation. At review the burden of proof remains with the injured worker to demonstrate they have an entitlement to compensation. The standard of proof required for an entitlement to compensation is on the balance of probabilities, being that it is more probable than not that the worker sustained the injury in the manner alleged.

**What is procedural fairness?**

If the Applicant of review provides any new information to the Regulator that may be relied upon in making our decision, the Regulator will disclose the new information to the other party to respond. This only applies to additional information that was not available to the Insurer when it made the original decision.

**Email preferred**

To ensure that the review decision is received as quickly as possible, the Regulator would prefer to communicate with all parties via email.

When the Review Officer contacts you, please advise whether you wish to communicate via e-mail, and provide us your email address.

**What happens after the review?**

**Claim review**

If the injured worker or employer disagrees with the Regulator’s decision then either party may appeal to the Queensland Industrial Relations Commission (QIRC) in Brisbane. Either party has 20 business days from the date they receive the review decision, in which to lodge an appeal. A copy of the notice lodged with the QIRC must also be served on the Regulator within 10 business days.

**Policy review**

If the employer or Insurer disagrees with the Regulator’s decision then either party may appeal to an Industrial Magistrate (84 courts state-wide). The notice of appeal must be filed at the Magistrates Court nearest to the place where the party conducts its business or at a Magistrates Court agreed between the party and the Regulator. Either party has 20 business days from the date they receive the decision in which to lodge an appeal. A copy of the notice lodged with the Commission must also be served on the Regulator within 10 business days.

**Contacting the Regulator**

There are many ways to contact the Regulator:

Tollfree call: 1300 361 235
Fax: (07) 3020 6375
Email: reviewunit@qcomp.com.au
Online: qcomp.com.au

**Employers** can obtain advice from The Chamber of Commerce and Industry Queensland on 1300 364 165 or a specific association of which you are a member.

For **workers**, Queensland Council of Unions provides a free workers’ compensation advisory service and can help you with the review, call tollfree on 1800 102 166.