

State Road Traffic Management Company Registration Scheme



MAIN ROADS WESTERN AUSTRALIA STATE ROAD TRAFFIC MANAGEMENT COMPANY REGISTRATION SCHEME

SUSPENSION / DEREGISTRATION REVIEW PROCEDURE

1. Introduction and Purpose

Main Roads Western Australia (Main Roads) requires traffic management companies to be registered with Main Roads under the State Road Traffic Management Company Registration Scheme (SRTMCRS).

The SRTMCRS requires traffic management companies to prove their competency against selection criteria that includes occupational health and safety, quality assurance, financial stability, industrial relations, personnel and experience. A Registered Traffic Management Company (RTMC) is expected to use its demonstrated capabilities to carry out traffic management professionally, ethically and to a consistently high standard.

The purpose of this document is to identify the process used when a RTMC is suspected of not having complied with the Conditions of Registration or where there has been a breach of their duty of care to road workers and/or road users.

2. Principles of the Review Procedure

Main Roads and/or other relevant agencies may conduct reviews (including an audit) of work sites and RTMCs to ensure RTMC's are complying with the Conditions of Registration.

If, as part of the abovementioned review or otherwise, a RTMC is suspected of non-compliance with the Conditions of Registration, Main Roads may undertake a review process.

Concerns or complaints regarding the implementation of traffic management, which have been raised (such as by a RTMC's client, a Local Government, a member of the public, a governing agency), will be reviewed in accordance with this procedure or the procedures of another governing agency.

As far as practicable, a review into a RTMC under this procedure will be conducted confidentially without prejudice and in a manner that affords procedural fairness to the subject of the investigation. If required, an independent entity will be appointed to undertake investigation within the bounds of process outlined in this document.

Other than for a relevant government agency governing the matters raised in the review, all information relating to a complaint, subsequent review, and any other matter pursuant to this procedure will remain confidential to the parties involved. Main Roads reserves the right to inform any party that the investigation is being undertaken if considered appropriate.

If, following the review process, a RTMC is to be suspended or deregistered from the State Road Traffic Management Registration Scheme, Main Roads reserves the right to inform any

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party of the company's registration status and core reasons for suspension and/or deregistration.

3. Process of the Review Procedure

A flow-chart for the review process procedure is provided as **Appendix A**.

A review may be conducted if Main Roads suspects non-compliance with the Conditions of Registration, including via:

- i Receiving a complaint by an identifiable person or agency about a RTMC which Main Roads considers could be the result of non-compliance; **and/or**
- ii Main Roads (including consultants appointed by Main Roads for its work) identifies during a site visit a potential non-compliance; **and/or**
- iii An audit (including an audit by consultants appointed or an audit of a governing agency), identifies that a RTMC may not be compliant.

Any person wishing to make a written complaint (as per section 3(i)) should provide supporting documentation or other evidence if available and email the complaint to TMCreg@mainroads.wa.gov.au for consideration and action by Main Roads.

Main Roads may decide:

- a) to take no further action to investigate the complaint if it considers the particulars raised are inadequate to support either suspension or deregistration. In this case Main Roads may arrange for a letter of explanation regarding the decision to be sent to the complainant; or
- b) to undertake an investigation in accordance with this procedure outlined in Section 4.

4. Investigation and Determination Procedure

Main Roads will carry out an initial investigation to identify the issues and gather information, to assess if there is a non-compliance to the Conditions of Registration.

If the matter is considered minor, Main Roads may choose to have direct discussions with the RTMC concerned. Main Roads may make recommendations to gain compliance to the Conditions of Registration, including the time frame by which the recommendations are to be made/completed. Main Roads may seek written agreement from the RTMC to undertake those recommendations, in order to close out the investigation. In such cases the RTMC will confirm in writing when those recommendations are made/completed, or otherwise the investigation will reopen.

If Main Roads does not consider direct discussions for a remediation appropriate, including but not limited to matters related to safety or instances of repeated failure to meet the Conditions of Registration it may commission a full investigation and a report into the matter.

If a full investigation is to be conducted, Main Roads will appoint a review panel. The Convener of the review panel will be a Main Roads staff member and panel may include members drawn

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from the Western Australian Local Government Association (WALGA), Australian Institute of Traffic Planning and Management (AITPM), Civil Contractors Federation (CCF), and/or the Institute of Public Works Engineering Australasia (IPWEA). The panel will in each case not exceed 3 persons, and the size of the panel will reflect the size of the potential non-conformance. Main Roads will not appoint any person to the review panel who has a real or perceived conflict of interest with regard to the investigation or its outcome. The review panel will undertake the investigation in a confidential, unprejudiced, and impartial manner.

Any person who is appointed as a review panel member or is invited to be a review panel member must declare if they have a real or perceived conflict of interest in the matter to be investigated. If a person believes they have a conflict of interest, they will decline or terminate the appointment as a review panel member. If, during the investigation, a review panel member forms the opinion they have a conflict of interest they will immediately advise the Convenor of the review panel and if necessary, seek the guidance of the Manager Real Time Traffic Operations with respect to their continued involvement in that panel.

The Convenor will notify the complainant (if one exists) in writing that their complaint is being formally investigated. This notice will be given within 14 days of the review panel being appointed.

The Convenor will also notify the RTMC in writing of the investigation, and the details of the potential non-conformance. This notice will be given within 14 days of the review panel being appointed.

The RTMC is invited to make a submission in writing (and also in person if the RTMC requires), to the review panel at a mutually convenient time. Where practicable, this submission will be given within 14 days of the notice to the RTMC. The RTMC will remain registered during the investigation and can continue to undertake traffic management.

Main Roads reserves the right to publish RTMCs who are being investigated including on the Main Roads website and as part of industry newsletters.

The RTMC will cooperate with any reasonable request of the review panel.

The Convenor will be entitled to the traffic management plan from the RTMC, including traffic guidance schemes, site diary prepared, payroll records, or any other document that may assist in determining the matters under investigation. The review panel members will be entitled to visit the sites as required. The review panel will be entitled to speak to the relevant workers.

The review panel will meet as required to progress the investigation. The panel will give due consideration to the subject's submission about the matter under investigation. The review panel convenor may meet with the complainant, or any other person considered relevant to the matters being investigated.

The review panel will objectively consider all evidence to make a written finding(s) report based on the facts of the matter under investigation. This will include definitive statement of whether the review panel considers there has been one or more non-compliances and the nature of each of those.

The RTMC will be given an opportunity (no greater than 7 days) to respond to the findings of the review panel, which will be taken into account when determining recommendations.

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Where practicable the investigation, and the findings report will be completed within 45 days of appointment.

The review panel will effectively choose from the three following options in its findings report:

A. A Breach is Not Found or has already been Remedied

There may be insufficient evidence of a breach, or the RTMC has already taken appropriate actions to solve all the issues which are not of a material nature, or the findings are insufficient to be a material breach. The review panel would recommend in this case the investigation be at an end with the appropriate actions, agreed by the RTMC to be completed, if not already complete. No substantial issues are to remain as a result.

B. A Breach is Found with Suspension Proposed

The weight of evidence leads to one or more breaches.

- i Specific and significant improvements are recommended with timelines to enable the RTMC to achieve compliance. During this time the RTMC will not work on State Roads.
- ii The RTMC is required to inform Main Roads of an upcoming work site which Main Roads will allow the RTMC to work on, but will be subject to an audit. The review panel will be reconvened to view the RTMC's compliance and will determine whether compliance is achieved.
- iii The RTMC is required to undertake a specified course of training, if any is recommended, within a given timeframe. The RTMC will inform Main Roads when it has completed the recommended training, providing evidence of that.
- iv The review panel may recommend the RTMC be suspended for an identified period of time or until remedial actions have been completed. The RTMC cannot perform traffic management on State Roads during the period of the suspension.
- v When Main Roads is satisfied, Main Roads will write to the suspended RTMC advising the term of suspension is complete and their registration is reinstated without the need to reapply.

C. The Breach is Found with Deregistration Proposed

- i. If the subject has failed significantly to comply or there has been a major safety breach, the review panel may recommend the RTMC be deregistered.
- ii. The deregistered RTMC cannot perform traffic management on State Roads whilst deregistered.
- iii. If the subject appeals the decision, they remain deregistered until the appeal process is complete.
- iv. Deregistration is for a minimum term of two years.
- v. The RTMC may not apply to be re-registered, and Main Roads will not entertain an application, within two years, including where a different company name or ABN, Occupational Safety and Health and Quality Certification, etc is used.
- vi. After two years, the subject must reapply in full for registration with Main Roads if it wishes to work on State Roads.

The review panel will keep a record of its proceedings, in line with Main Roads Record Keeping Policy.

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5. Appeals Procedure

If the RTMC is suspended or deregistered, the RTMC may appeal the investigation findings. The subject will identify the grounds of their appeal in writing to Main Roads Manager Real Time Traffic Operations, within 14 days.

The Manager Real Time Traffic Operations may receive representations from the RTMC and any other person who provided evidence to the review panel, consider any or all the evidence examined by the review panel, and consider any other information to assist in fairly determining the appeal.

The Manager Real Time Traffic Operations Network Operations will determine the appeal and may also request the review panel convenor answer questions in relation to the investigation.

The decision on the appeal will be final.

State Road Traffic Management Company De-Registration Process

