

Firearms Appeals Committee

Applicant Guide

Firearms Appeals Committee

The Firearms Appeals Committee (**Committee**) is a review body established under Part 9 of the *Firearms Act 1996* (Vic) (**the Act**). The Committee is entirely independent of both the Victorian Government and Victoria Police. The Department of Justice and Community Safety provides secretariat support to the Committee.

The Committee consists of up to 15 members, each of whom is appointed by the Governor in Council. The members of the Committee are made up of legal representatives, firearm industry representatives and representatives nominated by the relevant Minister.

The Committee has the function of reviewing decisions of the Chief Commissioner of Police (**Chief Commissioner**) in circumstances where a right of review is given to a person by or under the Act.

Decisions of the Chief Commissioner that may be subject to review by the Committee under the Act include:

- cancellation of a firearms licence;
- refusal of an application for a firearms licence;
- imposition of firearms licence conditions; and
- refusal to issue a permit to acquire firearms.

For all queries relating to firearms and firearms licensing information, applicants should contact the Victoria Police Licensing & Regulation Division. You may contact them via their online enquiry form.

How to commence a proceeding before the Committee:

Eligibility to apply to the Committee

Not all decisions made by the Chief Commissioner under the Act are eligible for review by the Committee.

In particular, it is important to note that if an applicant is currently a 'prohibited person' under the Act, they may not be able to apply to the Committee for review of a decision of the Chief Commissioner.

Applicants may wish to seek legal advice about whether they are eligible to apply to the Committee for a review of a decision.



How to lodge an application

1. Complete the Firearms Appeals Application Form available on the Committee's website. When completing this form, applicants should attach a copy of the Firearms Licence Cancellation/Refusal Notice sent to them by Victoria Police Licensing & Regulation Division (if relevant).
2. Obtain a money order or bank cheque made payable to 'The Firearms Appeals Committee' for \$47.70 (**this fee, which is current until July 2024, is non-refundable**). The Committee cannot accept cash or personal cheques.
3. Send the documents outlined in steps 1 and 2 to:

The Secretariat
Firearms Appeals Committee
GPO Box 4356
Melbourne VIC 3001

These documents must be sent to the Committee within 28 days of receiving notification of the Chief Commissioner's decision of which review is sought.

The Committee will provide applicants with a confirmation that their application has been received. When applicants apply to the Committee for review of a decision, they must also give notice of their application to the Chief Commissioner. This notice must set out the nature and grounds of the application for review. This can be done by sending a copy of the Firearms Appeal Application Form (available on the Committee's website) and any supporting documents to:

Licensing and Regulation Division
GPO Box 2807
Melbourne VIC 3001

About the Committee hearing

A division of three Committee members, including (1) a legal member who presides as chairperson, (2) a member with expertise in firearms, and (3) a community member, will hear the application for review.

In almost all cases, the hearing will be held in open court (but it is open to the parties to make an application for a 'closed' court in an appropriate case).

The Committee lists appeals for hearing and informs parties of the venue, date and time for the hearing in advance. Parties should advise the Committee as soon as possible if there is an issue

with a proposed hearing time, date or venue (see the section below called ‘Adjournment requests’ for more information about this).

In conducting hearings, the Committee:

- is not bound by the rules of evidence;
- may inform itself in any manner it thinks fit; and
- may conduct the proceedings in any manner it thinks fit.

Since the COVID pandemic occurred, the Committee has been offering online hearings via Zoom in addition to ‘in person’ hearings. Applicants who have a preference in this regard should advise the Committee accordingly, prior to the matter being listed for hearing.

Sometimes, before a final hearing, it will be necessary for the Committee to list a matter for a directions hearing. At a directions hearing, the Committee may make orders for the timetabling of the matter (or otherwise deal with any other interlocutory matters that have arisen). These orders may include orders for the filing and service of evidence and submissions by the parties prior to the hearing.

About the Committee’s hearing procedures

The hearing is typically conducted less formally than a court proceeding.

The general procedure of a hearing is typically as follows:

1. The lawyer for, or representative of, the Chief Commissioner will first call their witness/es (if any) to give sworn evidence.
2. Ordinarily, the applicant will be permitted to cross-examine any witness/es called by the Chief Commissioner. The Committee may also ask the witness/es some questions.
3. The applicant will then have the opportunity to present their case by making a statement or by giving sworn evidence. The applicant may provide the Committee with any written evidence (such as documents or photographs) that is relevant and/or call witnesses to give evidence.
4. The Chief Commissioner’s representative may ask the applicant (if they give sworn evidence) or any witness/es called to give evidence for the applicant questions in cross-examination. The Committee may also ask the applicant and/or their witness/es some questions.
5. Each party will have the opportunity to make oral submissions to the Committee about the application before it and the Committee may ask questions of the parties during this process.

6. In many matters, the Committee is able to inform the parties of its decision on the day of the hearing, with written reasons typically provided at a later date. However, if the matter is particularly complex and requires further deliberation, the Committee may adjourn the hearing on the day, and provide both its decision and written reasons together at a later date.

Legal representation

Applicants are not required to be legally represented at a hearing before the Committee, but they may be legally represented if they wish to be.

Requests to adjourn a hearing

The Committee will adjourn (postpone) a hearing only under exceptional circumstances and may require supporting documentation to explain why an adjournment is required (for example, a medical certificate, or some other explanation of why an adjournment is required in a particular case).

If an applicant has another important commitment on the date or at the time fixed for a hearing they should notify the Committee as soon as they become aware of it. Adjournment requests must be in writing and made **at least 5 business days before** the scheduled hearing date. There may be consequences for an applicant's case if they fail to appear at listed hearings without explanation or prior notice.

Repeated adjournments are unlikely to be allowed unless there are compelling reasons.

Notice of Ceasing to Act

The Committee requests that any legal practitioner who ceases to act for their client provide the following:

1. An email stating that you are ceasing to act for your client **at least 5 business days before** the scheduled hearing or immediately upon ceasing to act – whichever is the earlier.
2. The reason/s as to why you are ceasing to act, unless such reason/s may be privileged.

3. Confirmation that your client is aware of the hearing date and their entitlement and responsibility to attend the hearing, arrange and call witnesses, present evidence and make submissions to support their application.

Witnesses and interpreters

Where an applicant wishes to call witnesses to give evidence at a hearing before the Committee, a letter can be provided by the Committee if witnesses require proof of attendance to provide to their employers (for example, in order to arrange time off work).

In exceptional circumstances, the Committee can issue a summons requiring a person to attend and give evidence before it. A period of at least 5 business days' notice is required if a party seeks that a summons be issued.

If an applicant or any of their witnesses require an interpreter, it is up to the applicant to make these arrangements.

Witness and interpreter expenses are the responsibility of the party calling the witness or requiring the interpreter.

Costs and expenses

The Committee has no power to award costs, expenses or compensation.

Applicants are responsible for any individual expenses, costs, charges and/or losses incurred in bringing the application for review.

Appealing decisions of the Committee

A party that is aggrieved by a decision of the Committee may appeal to the Victorian Civil and Administrative Appeals Tribunal (**VCAT**).

Please note that time limits apply to this process. For information on how to lodge an appeal against a decision of the Committee, applicants should contact VCAT.

Privacy

Information and documents provided to the Committee may be disclosed to Victoria Police, approved bodies, government departments and other statutory authorities. The information

provided will be used in accordance with the provisions of the Act, the *Privacy and Data Protection Act 2014* (Vic), the *Health Records Act 2001* (Vic) and any other relevant legislation.

Freedom of Information

The Committee is a prescribed authority that is subject to the *Freedom of Information Act 1982* (Vic). Further information about the exercise of freedom of information rights can be accessed on the Department of Justice and Community Safety Freedom of Information website.

Contacting the Committee

Phone: 0429 701 586
Email: firearmsappeals@justice.vic.gov.au
Website: <https://www.justice.vic.gov.au/contact-us/firearms-appeals-committee>
Post: The Secretariat
Firearms Appeals Committee
GPO Box 4356
Melbourne VIC 3001

Disclaimer

The contents of this guide do not constitute legal advice, are not intended as a substitute for legal advice and should not be relied on as such. You may wish to seek independent legal advice or other professional advice before acting or relying on the information provided.