



MAIN ROADS WESTERN AUSTRALIA STATE ROAD TRAFFIC MANAGEMENT COMPANY REGISTRATION SCHEME

SUSPENSION / DEREGISTRATION POLICY REVIEW PROCEDURE AND APPEALS PROCESS

1. Introduction and Purpose

1.1 Main Roads Western Australia (Main Roads) has introduced a Traffic Management Company Registration Scheme. The Scheme requires traffic management companies to be registered with Main Roads by proving their competency against selection criteria that include occupational health and safety, quality assurance, financial stability, industrial relations, personnel, and experience. A Registered Traffic Management Company (RTMC) is expected to use its knowledge and skill to carry out traffic management professionally, ethically and to a consistently high standard.

1.2 Main Roads has a number of existing publications which RTMC's must comply with. These publications will collectively be known as the 'Code of Practice' and outline the professional and safety standards that RTMC's are required to meet. The documents which make up the Code of Practice include:

- *Traffic Management for Works on Roads Code of Practice*
- *Traffic Management for Events Code of Practice*
- *Traffic Controller's Handbook, Guidelines on the Provisions for all Path Users at Roadwork Sites in Built up Areas*
- *National Guidelines for the Use of Truck and Trailer Mounted Attenuators*
- *Australian Standard 1742.3 – 2009*

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

2. Principles of Review Procedure

2.1 Main Roads will conduct periodic reviews of work sites to ensure RTMC's are complying with the Code of Practice.

2.2 If Main Roads suspects that a RTMC may not be complying with the Code of Practice, Main Roads may use this review procedure to investigate and address the situation.

2.3 If a RTMC's client (such as a Local Government) or a member of the public is not satisfied with traffic management implemented by the RTMC they may submit a complaint to Main Roads. This complaint would be dealt with under the terms of this review procedure.

2.4 An investigation into a RTMC under the terms of this procedure will be conducted confidentially without prejudice and in a manner that affords procedural fairness to the subject of the investigation.

State Road Traffic Management Company Registration Scheme

2.5 All information relating to a complaint, subsequent investigation and any other matter pursuant to these procedures will remain confidential to the parties involved. However Main Roads reserves the right to inform any party that the investigation is being undertaken if considered appropriate.

3. Process of Review Procedure

3.1 This review procedure applies to possible noncompliance by RTMC's with the Code of Practice.

3.2 A flow-chart for the process of the review procedure is included in Appendix A.

3.3 An investigation under the terms of this review procedure will only be conducted if:

- i. Main Roads receives a complaint by an identifiable person about an RTMC which, in Main Roads opinion, could be the result of non-compliance with the Code of Practice; or
- iii. Main Roads receives information that a worksite is below average and conducts a site visit to ensure the RTMC is complying with the Code of Practice; or
- ii. Main Roads, through a planned audit, identifies that a RTMC may not be complying with the Code of Practice.

3.4 A written complaint should be accompanied by supporting documentary or other evidence if available.

3.5 A written complaint will be considered by Main Roads as soon as practicable.

3.6 Main Roads may decide as follows:

- to take no further action to investigate a complaint if it is considered the particulars raised are inadequate to support further action. In this case Main Roads may arrange for a letter of explanation to be sent to the complainant and the subject of the investigation; or to undertake an investigation in accordance with the procedure in Section 4 below.

4. Investigation and Determination Procedure

4.1 Main Roads will carry out an initial informal investigation to identify the issues and gather information.

4.2 For relatively minor matters, Main Roads may have direct informal discussions with the RTMC concerned to seek compliance with the Code of Practice.

4.3 If Main Roads considers direct informal discussions are not an appropriate means of achieving compliance with the Code of Practice, it may commission a formal investigation and a report into the matter.

4.4 If a formal investigation is to be conducted, the Manager Real Time Traffic Operations, Road Network Services, Main Roads shall appoint a review panel. The convener of the review panel will be a Main Roads staff member and the composition of the other panel members will be determined by Main Roads. It is likely panel members will be drawn from the Western Australian Local Government Association, Australian Institute of Traffic Planning and Management, Civil Contractors Federation, and/or the Institute of Public Works Engineering Australasia. The Manager Real Time Traffic Operations shall not appoint any person to the review panel who has a real or perceived conflict of interest with regards to the

State Road Traffic Management Company Registration Scheme

investigation or its outcome. The review panel shall undertake the investigation in a confidential, unprejudiced and impartial manner.

4.5 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 or its outcome. If a person believes they have a conflict of interest, they shall decline 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 shall 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.

4.6 The review panel convenor will notify the complainant in writing that their complaint is being investigated. Where practicable this advice shall be given within 14 days of the review panel being appointed.

4.7 The review panel convenor will notify the subject in writing of the investigation and the procedure to be followed. The subject of the investigation shall be invited to make a submission in writing or in person to the review panel. Where practicable this advice shall be given within 14 days of the review panel being appointed. The letter to the subject of the investigation should not be accusatory or convey predetermined messages of adverse opinions; rather it should be a courteous notice advising that an investigation is to be conducted. The subject will remain registered during the investigation and can continue to undertake traffic management on state roads; however Main Roads reserves the right to immediately suspend the subject if a major safety breach occurs while the investigation takes place.

4.8 The review panel convenor will notify in writing any client or asset owner with an interest in the matter under investigation if considered appropriate. Where practicable this advice shall be given within 14 days of the review panel being appointed.

4.9 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 will invite the complainant, subject of the investigation or any other person considered relevant to meet and discuss the matter being investigated.

4.10 If considered appropriate, the review panel convenor may seek to obtain the traffic management plan, traffic control diagrams, site diary prepared by the subject of the investigation, or any other document that may assist in determining the facts of the matter under investigation. The review panel members may visit the sites covered by the traffic management plan as required.

4.11 The review panel will objectively consider all evidence to make a finding based on the facts of the matter under investigation. The subject of the investigation will be given an opportunity to respond to the findings of the review panel, which will be taken into account when determining a recommended course of action.

4.12 The review panel will choose from the following options in determining a recommended course of action for consideration by the Manager Real Time Traffic Operations:

A. The complaint is not upheld. There may be insufficient evidence or the RTMC has already taken appropriate action to solve the issue. The review panel would recommend the case be dismissed.

State Road Traffic Management Company Registration Scheme

B. The complaint is upheld. Specific improvements are recommended to enable the subject to achieve compliance with the Code of Practice. During this time the subject may continue to work on state roads. The subject is asked to inform Main Roads of upcoming works which Main Roads will audit. The review panel will be reconvened to consider the subject's progress in achieving compliance with the Code of Practice and will determine whether a further recommended course of action is required.

C. The complaint is upheld. The subject is asked to comply with all aspects of paragraph 4.12 B. It is recommended the subject undertake a specified course of training within a given timeframe. During this time the subject may continue to work on state roads. The review panel convenor will make follow-up inquiries to determine if the subject has completed the recommended training. A record shall be made if the recommended training is completed; or the review panel shall reconvene to determine further action if the training is not completed in the given timeframe.

D. The complaint is upheld. The subject is asked to fulfil the duties outlined in paragraph 4.12 B and C. If the breach is deemed serious, the review panel may recommend the RTMC be suspended for an identified period of time. The subject cannot perform traffic management on state roads if suspended. If the subject appeals the decision, they remain suspended until the appeal process is complete. When the identified suspension time period has elapsed and Main Roads is satisfied the requirements in paragraph 4.12 B and C have been met, Main Roads shall write to the subject advising the term of suspension is complete and their registration is reinstated without the need to reapply.

E. The complaint is upheld. If the subject has repeatedly failed to comply with the Code of Practice or there has been a major safety breach the review panel may recommend the subject be deregistered. The subject cannot perform traffic management on State roads if deregistered. If the subject appeals the decision they remain deregistered until the appeal process is complete. Deregistration is for minimum of two years. The subject may not apply to become a RTMC within two years using a different company name. After two years, the subject must reapply for registration with Main Roads in the normal manner.

4.13 The review panel will not normally recommend option E when considering a first complaint and shall endeavour to support further training for the subject in the first instance.

4.14 The review panel will keep a record of its proceedings.

4.15 On completing the investigation, the review panel convenor will, in agreement with the other review panel members, prepare a written draft report detailing the investigation and findings. A copy of the draft report shall be provided to the subject of the investigation for comment before preparing a final report. The subject will have 7 days to respond. The final report will, in agreement with the other review panel members, include investigation findings, recommended action(s) and the subject's response to the draft investigation report. Where practicable the investigation, findings and recommendations of the review panel shall be made within 45 days of it being appointed.

4.16 The review panel will provide a final report detailing its investigation, findings and recommended course of action(s) to the Manager Real Time Traffic Operations who makes the decision. The subject of the investigation will be informed in writing of the decision and the options open to them, including how to appeal.

5. Appeals Procedure

5.1 The subject of an investigation may appeal the investigation findings and/or recommended course of action(s). The subject shall identify the grounds of their appeal in writing to the Executive Director, Network Operations.

5.2 The Executive Director, Road Network Services may receive representations from the subject 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 Executive Director, Network Operations may also request the review panel convenor answer questions in relation to the investigation. The decision on the appeal will be final.

5.3 The Executive Director, Network Operations will arrange for the subject of the investigation, complainant, client and asset owners (if appropriate) to be advised in writing of the determination of the appeal.

Appendix A

Dispute Resolution Flowchart

