

## 1. Introduction

This policy is about the review of draft reasons for decision by an Adjudicator who is not part of the panel making the decision.

Peer review promotes excellence in reasons writing, including clarity, readability coherence, flow, internal consistency, and best practices of style. It also promotes consistency more broadly across the Tribunal's decisions.

## 2. Request by a panel for peer review

If a panel wishes, it may, through counsel from the Governance & Tribunal Secretariat, ask another Adjudicator to review draft reasons for decision.

Consistent with limitations in the Tribunal's *Code of Conduct* regarding all consultations, the panel may not ask an Adjudicator to review draft reasons if that Adjudicator has a conflict of interest related to the proceeding, or might be biased or be reasonably be seen to be biased.

The review of draft reasons does not detract from the panel's independent decision-making responsibility. The peer reviewer's comments are suggestions only, and the panel may decide whether to make any changes, and if so what changes, after considering the reviewer's comments.

## 3. Obligations of the peer reviewer

An Adjudicator who reviews draft reasons makes suggestions only, and shall neither participate in the panel's deliberations nor comment on the panel's assessment of facts. The Adjudicator should expedite the review and not materially extend the time it takes to issue the decision.

All communications between the panel and the reviewer should be conducted through the Governance & Tribunal Secretariat counsel assisting the panel.

## 4. Best practices for writing reasons

When reviewing draft reasons, Adjudicators should consider these best practices for writing reasons:

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- plain language (minimal use of jargon)
  - prefers active voice over passive voice
  - concise
  - speaks clearly to different audiences (e.g., parties, industry, public)
  - gives context throughout (context before detail)
  - concise overview at beginning, including the result (“point first”)
  - minimizes the use of defined terms (e.g., generally unnecessary to define **Staff** as Staff of the Commission, or to define **Commission**)
  - where a term is defined, avoids initialisms (acronyms that are not themselves words), e.g., “POGG”, “LNCV”
  - clear issue-based structure, identifying “deep” issues, i.e., issues that are case-specific and that drill down as far as possible on the question “And what does that turn on?”
  - issue-driven case-specific headings
  - other transitions and signposts between sections or paragraphs (e.g., “We will now address...”)
  - clearly shows the analytical path (answers “why”), including:
    - the criterion or standard being applied
    - essential steps along the path
    - if credibility or reliability is in issue, the findings made and why they were made

## 5. Things to watch for

Reviewers should watch for:

- findings of fact that are conclusory or generic without being tied to the evidence
- failure to distinguish between credibility and reliability, where applicable
- over-reliance on witness demeanour, rather than on the content of the witness’s testimony and its harmony with other evidence
- reasons that appear to subject one party’s witnesses to a higher level of scrutiny than the other party’s witnesses

## 6. Tips for reviewers

These best practices for peer review should guide reviewers:

- focus your comments on the document and its content, not on the writer
- connect each comment to one or more specific goals of good decision-writing (e.g., clarity, readability, flow)
- recognize that every Adjudicator brings a different style to the art of writing reasons; don't address matters of style that don't materially undermine the principles and best practices set out above

Finally, when recommending an improvement to existing text, suggest one or more alternatives. Doing so will make your recommendation much clearer.