

11 March 2022

Public Transport Authority  
PO Box 8125  
Perth Business Centre  
Perth WA 6849  
Attention: Tim Woolerson (General Manager)

Email: [Timothy.Woolerson@transwa.wa.gov.au](mailto:Timothy.Woolerson@transwa.wa.gov.au)

Dear Mr Woolerson

**OPPORTUNITY TO RESPOND TO POTENTIAL ADVERSE FINDING AND  
PROPOSED PENALTY**

1. I refer to your letter dated 24 February 2022 (**Opportunity to Respond to Potential Adverse Finding and Proposed Penalty**) and say as follows.
2. I am ready, willing, and able to continue to work as a train driver under my terms of employment for the PTA.
3. However, I have been prevented from working because I have not provided the PTA with approved evidence of vaccination.
4. It is clear that the discipline process and foreshadowed disciplinary actions are directed at forcing or pressuring me to be vaccinated and to provide evidence of vaccination.
5. I wish to first reiterate, in my view, the Directions and the declarations referred to in the Directions were unlawful because they were acts *ultra vires* or beyond power. Thus, the Directions were not lawful and a failure to follow them does not form the proper basis for disciplinary actions.
6. Second, in all of the circumstances, the Directions are unreasonable and thus a failure to follow them does not form the proper basis for disciplinary actions.
7. Third, given my length of service and ability and willingness to continue to work, the PTA's course of action is unfair.
8. Thus, the discipline process should be discontinued, and I should be permitted to return to work. In all of the circumstances, dismissal on this basis would be unconscionable.

9. At a minimum, in light of the decision in *Falconer v Commissioner of Police* [2021] WASC 481, no disciplinary action should be taken until the matters I have raised above have been resolved.
10. I wish to note that *Falconer v Commissioner of Police* [2021] WASC 481 is provisionally set for trial March 29 to 31, 2022.
11. I note your final determination in respect to my matter must be made by 19 July 2022.
12. I ask that you refrain from making any such determination until at least the decision of *Falconer v Commissioner of Police* [2021] WASC 481 is handed down.
13. While I will continue to engage in the discipline process, I do not consider that it is authorised and reserve all of my rights under the terms of my employment, at law, and in equity.

Yours sincerely,