

Foster and kinship carers (Carers) in South Australia are entitled to seek a review of a decision of the Chief Executive, Department for Child Protection (DCP) or a child protection officer under the [Children and Young Persons \(Safety\) Act 2017](#) (SA) (the Act).

There are certain steps which must be taken for a review to occur and short timeframes to be met. The **CF&KC-SA Carer Advocacy Service** can help Carers to navigate the processes, understand their responsibilities and offer Carer families ongoing support when dealing with issues and seeking a review of decisions.

The Act

Chapter 12 relates to 'Reviews of decisions under Act' with the following sections fully in place from 22 October 2018:

- s157 Internal Review
- s158 Review of decisions by South Australian Civil and Administrative Tribunal (SACAT)

NB. As this is a new Act, this information may change from time to time. The [Children and Young People \(Safety\) Regulations 2017](#) (SA) may make further provision in respect of a review under this section.

Reviewable decisions

The kinds of decision which may be subject of a review are referred to in Chapter 7 of the Act (other than a decision under Part 4 of that Chapter), and relate to:

- **approval of Carers**, including
 - a condition setting out the kind of out of home care that can be provided
 - the maximum number of children and young people that an approved Carer is permitted to have in their care
- **ongoing reviews of approved Carers**, including
 - regular assessments of the provision of care by the approved Carer
 - proper assessments of requirements of the approved Carer for financial or other assistance
- **cancellation of Carer approval**
- **provision of certain information by approved Carers**
- **delegation of certain powers to approved Carers**
- **temporary placement of child or young person with non-approved Carers**
- **provision of information and involvement in decision-making**, including
 - approved Carers to be provided certain information prior to placement
 - approved Carers entitled to participate in decision-making and review processes
- **decisions of the Chief Executive**, including
 - placement of a child or young person
 - removal of a child or young person
 - arrangements for the education of the child or young person
- **transition to long-term guardianship**
- **agreement for funeral arrangements**

STEP 1: Seeking an Internal Review (s157)

This is the first step in the review process for any person aggrieved by a decision of the Chief Executive or a child protection officer.

TIP: It is important to have received notice of the decision **in writing** to be able to address each particular decision and to ensure time frames are met.

This will also be important if progressing to an external review process.

Where information has been communicated verbally, request a written advice from DCP to confirm decision via email (preferred) or via registered post.

An 'Application for Internal Review' form must be completed and lodged with DCP via the [DCP Central Complaints Unit](#), Office of the Chief Executive **within 30 days** after the day on which the notice of the decision was given (or such longer time as the Chief Executive may allow).

TIP: We strongly recommend written communication with DCP when seeking an internal review (rather than phone calls), and **keeping copies** of all your communications to DCP.

The Central Complaints Unit should confirm receipt, advising associated internal review processes and allocating a DCP staff member who was not involved in the decision to conduct the review.

The Chief Executive may confirm, vary or reverse the decision under internal review.

STEP 2: Seeking an External Review of decisions by South Australian Civil and Administrative Tribunal (SACAT) (s158)

If an internal review has been conducted in respect of the decision and you are dissatisfied with outcome, you may make an application to SACAT for a [review of a decision of the Chief Executive](#). An application for review by SACAT must be lodged online **within 28 days** from the date that the internal review notice was issued. [NB. Matters cannot proceed to SACAT unless an internal review has been conducted.]

Before applying, you will need:

1. A copy of the *decision; and
2. To cover the [application fee](#) (\$73 – or \$54 concession to commence proceedings)

***decision:** We suggest including both the original decision and the outcome of the internal review at this step. You will receive a tracking code or file number from SACAT for your case.

SACAT will generally deal with an issue through a [conference](#), with a view to explore options for reaching agreement in the first instance. If the dispute is not completely resolved via agreement between parties, it will be referred to a hearing.

A full [hearing](#) is intended to resolve an issue, applying the rules of procedural fairness that require a tribunal member to conduct an unbiased hearing, to look at the evidence or material before DCP as the original decision maker, consideration of any new evidence or material (where SACAT decides to admit), and to give each party a fair opportunity to state their case. The tribunal member will make a decision (i.e. will decide if the decision made by DCP is correct or if there should be changes). That **decision is binding** on the parties and may be enforced. You will be given a copy of the decision.

How to prepare for a review

It can be helpful to prepare ahead of a review. Here are some of the things you may want to consider:

- **Do you need legal advice?**

CF&KC-SA strongly advises Carers seek legal advice if they are uncertain about their responsibilities or rights. If the matter is serious or complex, it is recommended you seek legal representation to ensure you understand your rights, are aware of any additional obligations which may arise, and can be advised on actions. While you can appear at SACAT without a lawyer, you may want one. We can help you explore your options and put you in touch with legal services.

- **Do you want support from an advocate?**

The **CF&KC-SA Carer Advocacy Service** can help Carers to navigate the processes, understand their responsibilities and offer Carer families ongoing support when seeking a review of decisions. We can help you complete the online applications for internal and external reviews, understand the processes, review the materials provided by DCP, access legal advice, prepare for the conference or hearing, attend the conference or hearing with you, and present your views at the conference or hearing.

[Individual Advocacy](#) helps you to have an effective voice and provides options and information – free from conflict of interest and independent of the broader system that provides placement support to Carers.

- **Have you received a written record of the decision (or decisions) from DCP?**

This is important in terms of addressing the internal and external review processes in a formal way, and to ensure you can meet the required timeframes in which to seek a review.

- **Is there any associated information?**

Records and documents help show how informed you have been ahead of the decision being reached and can help provide relevant background and context to the situation. Gather documents in a timeline to show how things have progressed over time.

- **Do you have a clear understanding of what aspects (whole or part) of the decision you would like to be reviewed and the reasons you believe decision should be reviewed?**

You will need to be able to clearly state what you are seeking to be reviewed, together with the reasons why you are seeking this review.

You may also find there is a lot you don't know – this may be an opportunity to write down your questions and seek any missing/additional information.

- **Can you make a factual summary of your views about the decision?**

This opportunity to state your views should be a factual account and where possible, tied in to legislation, policy, process or practice (i.e. it is not enough to state you are unhappy).

Writing a factual summary can also help to remove any personal opinions about individuals and keep attention on the situation.

- **Have you focused on how the views of the children and young people involved have been taken into consideration (or not been taken into consideration)?**

This is an important factor and one where Carer families are in a unique position to reflect on the impact for children and young people.

Under s159 of the Act, the views of children and young people must be given a reasonable opportunity to personally present to SACAT in relation to their ongoing care and protection.

- **Are there any other steps you have previously taken to follow up and address the situation?**

If you have taken your complaint to several parties, set out what action has been taken.

Usually DCP would have some awareness if a matter has been sent to the Minister or other agency, however seeking a review under the legislation may cause other action to be on hold.

- **Can you propose any steps or actions you are willing to take to resolve the issue – again focusing on the needs of the children and young people involved?**

Think carefully about any solutions you could propose; i.e. anything you believe would help; anything you could do differently to prevent the issue recurring.

- **Who else do you want to be involved?**

Do you have a strong support network who can be there to help you understand all the aspects of a review? This may involve formal services (such as legal representatives and CF&KC-SA advocates, and/or informal networks, i.e. family and friends).

You must ensure the confidentiality of any services or persons you engage with about your situation and provide them with consent to contact relevant persons on your behalf (if needed).

- **What do you want to happen from here?**

It can be helpful to consider having a contingency plan for a range of outcomes – even if it is just having a next step in place.

- **Are you looking after yourself?**

Any involvement in a dispute or complaint can be distressing – even more so when it directly impacts upon your family. Consider the additional impact of stress and take some measures to monitor and maintain your health (e.g. see your GP; self-care).

For more information or to discuss your personal circumstances, please contact us:

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Freecall: 1800 732 272