

**This guide is intended to assist Foster and Kinship carers (carers) draft the content for a South Australian Civil and Administrative Appeals Tribunal (SACAT) external review application.**

If a carer is dissatisfied with the outcome of an internal review of a decision of the Department for Child Protection (DCP), the next available step is to lodge an application for review with SACAT. The following Carer Guide provides some guidance as to how a carer might approach this application process.

SACAT is a digital Tribunal meaning all applications are made online through the SACAT [website](#). A carer can register for an account to keep track of their applications or apply as a guest for one-off applications. Accompanying documentation can be uploaded to the online submission or sent to the Tribunal by email at [sacat@sacat.sa.gov.au](mailto:sacat@sacat.sa.gov.au) using the lodgment number or SACAT reference number using the lodgment number or SACAT reference number.

#### **What is the SACAT Application Form process?**

The application form itself is relatively simple to complete and designed to allow anyone to complete it with ease. Much of the application consists of questions about the parties and their contact details.

There are specific questions that are outlined in the application that require further detail to allow the Tribunal Member to gain insight into why the application is being lodged. In referencing the parties within the application, you as the carer are referred to as “the applicant” as you are making the application. DCP are referred to as “the respondent” as they are responding to the application.

The following headings outline specific questions within the SACAT application and provide guidance as to how they may be answered.

#### Applicant Details

Once you have opened the SACAT application (either by registering your details or as a guest) you will need to specify what type of application you are lodging. “Step 2” on the online application asks to *select what your application is about*. Here you can pull down the tab and scroll to *Children and Young People (Safety) Act*. Once selected this will populate “Step 3” which asks you to *specify the application type*. This drop-down box lists every reviewable decision type. Scroll through the list and highlight the type of decision that best suits your application. For example, a very common application type is, *Review a decision regarding placement of a child*.

The final question on this page asks you to select your role as the applicant. You will then be prompted to complete your personal contact details.

#### Respondent Details

Respondent details refer to the organisation that has made the decision you are appealing. The Respondent is the DCP. The personal details refer to the person who made the decision, which will be the reviewer stated within your internal review outcome letter.

#### Children's Details and/or Interested Parties

The form will then ask you to provide the contact details of the child or young person affected by the decision. If the child resides in residential care, you may provide the address of the Department office that has made the decision. Otherwise, provide the personal contact details of where the child or young person is currently residing.

#### Further Child's Details

This section requires you to consider how you think the child or young person concerned will be able to participate in the SACAT proceedings. As their carer you can provide insight into how the child or young person can best be supported to participate. If your child or young person can express their views, you will need to describe how they might best participate. This could include, but is not limited to, the child or young person meeting with the Tribunal Member, an independent psychologist, or a child advocate, or by providing a letter to the Tribunal.

#### Application fee

The current application fee is \$87.50 without a concession. This can either be paid by credit card at the time of lodging the application online, or you can choose to pay a 7-day invoice.

Concession card holders may qualify for a reduction on their fee, paying \$65.60. A full fee waiver may also be granted due to hardship or special circumstances. Supporting documents will need to be provided to SACAT so your circumstances can be assessed. To apply for a full fee waiver or concession highlight the options provided on the application fee page. Further information regarding SACAT fees and their waiver policy are available on the SACAT [website](#).

#### **Completing the SACAT application form**

The following section identifies the types of questions included in the SACAT application form and guidance on how to respond. This information is not to be considered legal advice and is for informational purposes only.

#### What steps have you taken, including any internal reviews conducted by the decision maker?

To make a SACAT application, an internal review must have been completed. An example response to this could be:

*“On the 8 September 2019 I contacted the Respondent via email requesting an internal review of decision dated (insert date), which stated that the child in my care, (insert name), was being removed from my care on (insert date)”.*

#### Describe why you think the decision was wrong

Clearly state which decision of the DCP you are seeking to be reviewed and the reasons.

It is acceptable to refer the Tribunal to your internal review application, which should outline the reasons as to why the decision was wrong. It is recommended this document is uploaded with the online application.

When answering this question use specific examples and quote reports if possible. An example response is as follows:

*“We respectfully submit that the decision dated (insert date) is wrong as it fails to take into consideration the following:*

- *The child's wishes to remain living at my premises;*
- *Report commissioned by psychologist, (insert name) dated (insert date) which states that, “... the child would suffer psychological detriment if they were to be removed from their long-term care be placed with the biological family member”.*

#### Describe what you would like the Tribunal to do

SACAT has specific power under section 37 of the SACAT Act, to make the following orders:

- (a) Affirm the decision that is being reviewed;
- (b) Vary the decision that is being reviewed;
- (c) Set aside the decision that is being reviewed; and
  - I. Substitute its own decision; or
  - II. Send the matter back to the decision maker for reconsideration in accordance with any directions or recommendations that the Tribunal considers appropriate.

Examples of how to answer this question are:

1. We request that the Tribunal set aside the decision.
2. We request that the Tribunal set aside the decision and make the following orders:-...
3. We request that the Tribunal vary the decision dated ... to allow/include ...

**Setting aside a decision** is effectively cancelling the decision and restoring the situation to what it was prior to the decision being made.

**Varying the decision** may be requested if you agree with the decision but feel that certain aspects should be changed or altered. For example, requesting the transition period to be extended for the child in your care who is being placed in a kinship placement with a biological family member.

It is important to remember that the review by SACAT is a “merits review”. This means that SACAT does not have to find an error in the original decision. The Tribunal’s task is to reach the correct and preferable decision based on the facts and the law at the time of the hearing. While the Tribunal must give appropriate weight to the decision of the original decision maker, taking into account all the information available at that time, the Tribunal may also take into consideration any new information or evidence which has since come to light.

Is the application urgent? If so, what are the reasons for urgency?

When answering this question factors to consider and provide further detail on are:

- Risk factors
- Is the decision detrimental to the child or young person?
- Is the child at risk because of the decision?
- Are there any health concerns/emergencies?

SACAT have recently improved their online application process, and an applicant can now start their application then save it and complete it later. It is wise to prepare the answers to the questions in advance and save them in a word document that can be cut and pasted into the SACAT application in case of any technical difficulties.

Once you have lodged an application for review with SACAT you will be sent a confirmation email confirming the date and time of the first directions hearing and whether the hearing will be in person or via telephone.

For further information about the SACAT process, please consult our separate Carer Guide *External Review at the South Australian Civil and Administrative Appeals Tribunal* available on our website.

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

**Email:** [support@cfc-sa.org.au](mailto:support@cfc-sa.org.au)

**Freecall:** 1800 732 272

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# How to draft a SACAT Review Application

## Carer Guide