

Freedom of Information

Applying for review of a Freedom of Information determination

What freedom of information determinations can SACAT review?

Under the *Freedom of Information Act 1991*, a person can apply to an agency (such as a State Government agency, council or university) for:

- access to documents (FOI application) or
- amendment of their personal records (amendment of personal records application)

A person can apply to SACAT for a review where the following determinations have been made in relation to an FOI application or an amendment of personal records application:

- a determination made by an agency following an internal review
- a determination that is not subject to internal review (for example, where a determination was made by or at the direction of the principal officer of the agency or at the direction of a person or body to which the principal officer is responsible)
- a determination made on review by the Ombudsman or the Police Ombudsman

An agency that is aggrieved by a determination made by either the Ombudsman or Police Ombudsman, may, with the permission of SACAT, apply for a review of the determination by SACAT. However, the review may only be as to a question of law, which will be referred to a Presidential member of SACAT.

Internal review must be completed first

Where a person is aggrieved by an agency's determination, and that decision was made:

- by an accredited FOI officer who was not the principal officer of the agency and
- without the direction of the principal officer or without the direction of a person or body to which the principal officer is responsible

that person must first apply to the relevant agency for an internal review before applying for a review by SACAT.

The notice of determination from the agency must set out the name and designation of the officer who made the decision, and the person's rights of review, including whether internal review is available.

Time to review

To apply to SACAT for a review, the application must be lodged within 30 days after receiving notice of the determination to which the proceedings relate or, if no notice of determination is given, within 30 days after the determination is due.

The Tribunal has the power to allow applications to be filed after the 30 day time limit if it thinks it is appropriate to do so in the circumstances.

How do I apply to SACAT?

All applications to SACAT are completed through our online application form which you can find at our website: www.sacat.sa.gov.au. All of the information you are required to provide will be contained in the online application form.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767. You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.

What fees apply to an application for review of a freedom of information determination?

There is a filing fee that applies to the review of these types of decisions.

You must generally pay a fee when you make an application to SACAT. However, this depends on the type of application you are making and your role in the matter.

The online application form will tell you the applicable fee for your application. You must pay this fee at the time of making your application or you may make an application for the fee to be waived.

SACAT will not do anything with your application until any applicable fees have been paid or waived.

Further information about SACAT fees and charges is available at our website, [Fees and charges](#) and [Fee waivers and exemptions](#).

Requirements of the original decision-maker

Where review proceedings have been brought to SACAT, decision-makers are obliged to assist SACAT on the review. This means that decision-makers must provide certain documents to SACAT, such as a written statement of reasons for the decision and any other document or thing in their possession that may be relevant to the review. Further information about the original decision-makers obligations is available in the *Assistance of a Decision-Maker in Administrative Review Matters* factsheet.

Where the decision on review was made by the Ombudsman or Police Ombudsman, these obligations will still apply, and the Ombudsman or Police Ombudsman will be required to provide reasons for the decision and any other document or thing relevant to the review.

Restricted and exempt documents

The FOI Act provides that certain documents can be exempt, and some exempt documents can be further classified as restricted documents. Access to a document can be refused by an agency on the basis that a document is exempt.

Where a matter involves an exempt document, a copy of the document will be provided to SACAT in a confidential book of documents.

Where a matter involves a restricted document and an application has been made by an agency, SACAT is obliged to receive evidence and hear argument in the absence of:

- the public;
- the other party to the review; and
- the other party's representative, where SACAT considers it necessary to prevent disclosure of exempt information.

Contact the Tribunal

If you would like to speak to a staff member about the freedom of information jurisdiction of the Tribunal, please telephone SACAT on 1800 SACAT 723 767 (select option 4 and then option 5).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.