

# Assistance of a Decision-Maker in Administrative Review Matters

## Obligation of the decision-maker

When SACAT receives an application for the review of an administrative decision made by government, local government or a registered community housing provider, the decision-maker must use their best endeavours to assist the Tribunal to make its decision on review.

## What is required of a decision-maker?

The original decision-maker must provide to the Tribunal:

- a written statement of the reasons for the decision
- any document or thing in the decision-maker's possession or control that may be relevant to the Tribunal's review of the decision

In providing any document or thing to the Tribunal, the decision-maker must also take reasonable steps to identify the documents or things that were taken into account in making the relevant decision.

## Statement of Reasons

The statement of reasons should:

- identify the decision under review
- identify any person who made a recommendation to the decision-maker prior to the making of the decision as to whether or not the decision should be made or what decision should or could be made
- set out the findings on the material questions of fact (the facts upon which the decision was based)
- refer to the evidence or other material on which those findings were based
- give reasons for the decision

## Book of Documents

The book of documents should include the below documents in the following order:

- the application for review of the reviewable decision
- a copy of the decision under review, if made or recorded in writing
- a copy of any document notifying the applicant of the decision
- the statement of reasons for the decision
- all other documents and things in the decision-makers possession or control that may be relevant to the Tribunal's review of the decision in chronological order from the earliest to the latest date

## Presentation of the Book of Documents

The book of documents should be provided to the Tribunal electronically. The document can be emailed to SACAT using the [sacat@sacat.sa.gov.au](mailto:sacat@sacat.sa.gov.au) email address. You should always quote the SACAT reference number in the title of your email.

If you are unable to email the document, you can contact the Deputy Registrar of the Administrative and Disciplinary Stream of SACAT to discuss alternative arrangements of providing the document to the Tribunal.

SACAT requires that the documents should be presented as follows:

- the book of documents must contain an index which sets out the date and a brief description of each document or thing
- each document must be numbered (starting from the number 1 and succeeding documents must be numbered in sequence)
- all the pages must be numbered and the page numbers must be set out in the index

- the book of documents should be split into multiple volumes if it is too large to email

### **Service of the Book of Documents on the Applicant(s) for Review**

SACAT requires that the decision-maker must also provide a copy of the book of documents to the applicant(s) at the same time they provide them to the Tribunal. Most decision-makers choose to carbon-copy (cc) the applicant(s) to the email to the Tribunal so that the Tribunal is aware the documents have been sent to the applicant(s).

Any additional material which is provided to SACAT throughout the duration of the matter should also be provided to the applicant(s) at the time it is provided to the Tribunal.

### **Time period to produce the Book of Documents**

The decision-maker must provide the Book of Documents to the Tribunal and to the applicant(s) within 21 days from the time he or she receives the request for information. The Tribunal may shorten this time period on application to cater for urgent applications.

### **Confidentiality, privilege and other types of immunity**

If one of the documents or part of a document is subject to a claim of privilege, public interest immunity or other immunity or claim of non-disclosure, the decision-maker must follow the process set out in rule 55 of the *SACAT Rules 2014*.

The other requirements discussed in this factsheet are set out in:

- section 35 of the *South Australian Civil and Administrative Tribunal Act 2013*
- parts 8 & 9 of the *South Australian Civil and Administrative Tribunal Rules 2014*
- regulation 6 of the *South Australian Civil and Administrative Tribunal Regulations 2015*.

### **Contact the Tribunal**

If you would like to speak to a staff member about the requirements of the original decision-maker in administrative review matters, please telephone SACAT on 1800 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.