



South Australian Civil and Administrative Tribunal

2017-18 Annual Report

South Australian Civil and Administrative Tribunal

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To:

Vickie Chapman
Deputy Premier
Attorney-General

This annual report is to be presented to Parliament to meet the statutory reporting requirements of *South Australian Civil and Administrative Tribunal Act 2013* and meets the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

Submitted on behalf of the South Australian Civil and Administrative Tribunal by:

Justice Judy Hughes
President, SACAT

Signature

Date

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Section A: Reporting required under the *Public Sector Act 2009*, the *Public Sector Regulations 2010* and the *Public Finance and Audit Act 1987*

Agency purpose or role

SACAT is a state Tribunal that helps people in South Australia to resolve matters within civil and administrative law, either through agreement at a conference or mediation, or through a decision at a hearing. SACAT also conducts reviews of Government decisions.

SACAT strives to be accessible and responsive to user needs, and deals with cases in a range of areas (or jurisdictions), such as residential tenancies, mental health, guardianship & administration and a wide range of administrative decisions made by other areas of Government. SACAT is an independent statutory authority that operates across the state of South Australia and is a key part of the state justice system.

Objectives

- In the exercise of its jurisdiction, to promote the best principles of public administration
- To be accessible by being easy to find and easy to access, and to be responsive to parties, especially people with special needs
- To ensure that applications are processed and resolved as quickly as possible while achieving a just outcome
- To keep costs to parties involved to a minimum insofar as is just and appropriate
- To use straightforward language and procedures
- To act with as little formality and technicality as possible
- To be flexible in the way in which the Tribunal conducts its business
- In relation to the above objectives, to consult and engage with appropriate agencies and organisations

Key strategies and their relationship to SA Government objectives

Key strategy	SA Government objective
Refine and embed performance indicators for key Tribunal outcomes	Improve accountability and measure service provision levels.
Introduce improved payment and other functionality into the case management system.	Provide efficiencies for the community who use our service.

Key strategy	SA Government objective
Prepare for and implement new jurisdictions assigned to SACAT	Increase the range of services provided.

Agency programs and initiatives and their effectiveness and efficiency

Program name	Indicators of performance/effectiveness/efficiency	Outcome for South Australia
Alternative Dispute Resolution (ADR)	Percentage of matters referred to alternative dispute resolution processes that are resolved without the need for a hearing was 83%. (The generally accepted target nationally in similar organisations is 65%)	A high resolution rate through timely, flexible and informal ADR processes serves the public well. Participants are assisted in resolving disputes by reaching their own agreements.
Housing and Civil Matters	Percentage of vacant possession applications to be listed within 3 weeks of receipt of a completed application was 95% against a target of 90%. Percentage of applications for review under the SA Housing Trust Act 1995 finalised without the need for a full hearing was 79% against a target of 75%,	This assists landlords and tenants by providing them with quick access to justice.
Guardianship and Administration Matters	Percentage of completed applications for a Guardianship and/or Administration Order heard and determined within 30 days was 75% against a target of 75%.	Hearing and finalising matters about Guardianship and/or Administration in a timely manner protects vulnerable members of our community

Legislation administered by the agency

South Australian Civil and Administrative Tribunal Act 2013

Organisation of the agency

SACAT is headed by a President, Justice Judy Hughes, who is a Supreme Court judge. The SACAT registry is led by the Principal Registrar, Ms Clare Byrt, who assists the President in the administration of the Tribunal and its day to day business. The Tribunal's alternative dispute resolution and hearing work is performed by members and statutory officers who are either sessional or salaried. A full list of members is provided at Attachment 1.

SACAT is organised into three streams to manage the range of matters handled by the Tribunal:

Housing & Civil Stream

Community Stream

Administrative & Disciplinary Stream

In addition there is a corporate services area which supports the Tribunal through provision of financial, systems and administrative support.

SACAT's organisational chart is available [here](#)

Other agencies related to this agency (within the Minister's area/s of responsibility)

N/A

Employment opportunity programs

Program name	Result of the program
Refer to AGD Annual Report	

Agency performance management and development systems

Performance management and development system	Assessment of effectiveness and efficiency
Refer to AGD Annual Report	

Work health, safety and return to work programs of the agency and their effectiveness

Program name and brief description	Effectiveness
Refer to AGD Annual Report	

Work health and safety and return to work performance

	2017-18	2016-17	% Change (+ / -)
Workplace injury claims – Data for SACAT is included within the AGD Annual Report			
Total new workplace injury claims			
Fatalities			
Seriously injured workers*			
Significant injuries (where lost time exceeds a working week, expressed as frequency rate per 1000 FTE)			
Work health and safety regulation– Data for SACAT is included within the AGD Annual Report			
Number of notifiable incidents (<i>WHS Act 2012, Part 3</i>)			
Number of provisional improvement, improvement and prohibition notices (<i>WHS Act 2012 Sections 90, 191 and 195</i>)			
Return to work costs** – Data for SACAT is included within the AGD Annual Report			
Total gross workers compensation expenditure (\$)			
Income support payments – gross (\$)			

*number of claimants assessed during the reporting period as having a whole person impairment of 30% or more under the *Return to Work Act 2014 (Part 2 Division 5)*

**before third party recovery

Fraud detected in the agency

Category/nature of fraud	Number of instances
Refer to AGD Annual Report	

Strategies implemented to control and prevent fraud

Refer to AGD Annual Report

Whistle-blowers' disclosure

Number of occasions on which public interest information has been disclosed to a responsible officer of the agency under the *Whistle-blowers' Protection Act 1993*

Refer to AGD Annual Report

Executive employment in the agency

Executive classification	Number of executives
See AGD Annual Report for details. SACAT executive equivalents are statutory appointees and included in the AGD Annual Report	

The [Office of the Commissioner of Public Sector Employment](#) has a [data dashboard](#) for further information on the breakdown of executive gender, salary and tenure by agency.

Consultants

The following is a summary of external consultants that have been engaged by the agency, the nature of work undertaken and the total cost of the work undertaken.

Consultancies below \$10,000 each		
See AGD Annual Report.		
Consultancies above \$10,000 each		
See AGD Annual Report.		
Total all consultancies		

See also the Consolidated Financial Report of the Department of Treasury and Finance <http://treasury.sa.gov.au/> for total value of consultancy contracts across the SA Public Sector.

Contractors

The following is a summary of external contractors that have been engaged by the agency, the nature of work undertaken and the total cost of the work undertaken.

Contractor	Purpose	Value
See AGD Annual Report.		

The details of all South Australian Government-awarded contracts for goods, services, and works are displayed on the SA Tenders and Contracts website [here](#).

The website also provides details of Across government contracts [here](#).

Financial performance of the agency

Data on financial performance of SACAT is included in the AGD Annual Report.

Other financial information

See AGD Annual Report.

Other information requested by the Minister(s) or other significant issues affecting the agency or reporting pertaining to independent functions

SACAT Expansion

During its third full year of operation SACAT continued to grow and develop. The jurisdiction expanded to cover an additional diversity of review of government decision making. A decision was made to implement the conferral of jurisdiction under the *Statutes Amendment (SACAT No 2) Act 2017* in stages over 2017/18. The first stage commenced on 22 February 2018 and covered:

- *Agricultural and Veterinary Products (Control of Use Act) 2002*
- *Associations Incorporation Act 1985*
- *Co-operatives National Law (South Australia) Act 2013*
- *Environment Protection Act 1993*
- *Petroleum and Geothermal Energy Act 2000*

- *Petroleum Products Regulation Act 1995*
- *Primary Industry Funding Schemes Act 1998.*

On 26 February 2018, SACAT was conferred a limited jurisdiction by the *Children and Young People (Safety) Act 2017*.

The next tranche of jurisdiction was due to be conferred on SACAT on 1 and 5 July 2018 with further expansion expected later in 2018.

Independent Review of SACAT Operations (the Belby review)

In April 2017 the State Government appointed retired Supreme Court Justice, the Hon. David Bleby QC to conduct an independent review into the operation of the South Australian Civil and Administrative Tribunal (SACAT). The Attorney-General tabled the review in Parliament on 26 September 2017 along with responses to the recommendations of the review.

Throughout 2017/18 SACAT focussed on the steady implementation of a significant number of recommendations of the Bleby review.

- **Accommodation Colocation**

A principal recommendation of the review was the consolidation of SACAT to one location as one of the highest and most urgent priorities. Following discussions with the Attorney-General's Department and the allocation of budget for 2017-18, SACAT is now in a position to achieve this in 2018-19.

The primary benefit of SACAT being in one place is that it will enable SACAT to continue to develop into a unified single entity. Whilst the establishment of SACAT has been undertaken very successfully, the maintenance of two sites that house what have been to date the high volume streams has imposed some limitations. To maximise the things that the streams have in common and allow staff and Member mobility, one location is crucial.

As a result of tenancy changes at 100 Pirie Street, signed agreements were exchanged that have allowed SACAT to secure additional floor space for the co-location of all staff, members and volunteers. The extra space will provide for additional hearing rooms for current and new jurisdictions, functional workspaces, collaborative areas, quiet rooms, better amenities and breakout spaces for staff and members.

- **Fee Waiver and Concession Policy**

A further significant recommendation of the Bleby review was for SACAT to conduct a comprehensive review of its fee waiver and concession policy. A new policy was proposed and consulted on in December 2017 and in March 2018. SACAT implemented the new Fee Waiver and Concession Policy on 1 May 2018.

The primary change entails introducing reduced fees for concession card holders. Those who currently have their fees waived entirely will now be entitled under the policy to have a reduction in their fee.

Full fee waiver will still be available, but only to those who qualify on a more rigorous means-tested application or qualify for an automatic waiver for full fee waiver supported by evidence.

Applications that were previously fee-free, based on subject-matter or class of applicant, remain so.

- **Other recommendations**

A new audit procedure has been developed and approved for implementation for recently-appointed members, requiring that (at a minimum) 5 orders and 3 hearings will be reviewed within the first year of appointment by an executive, presidential or experienced member. This will be one component of a comprehensive training and induction package for new members.

A member Training and Development Committee has been established under the leadership of the President and SACAT has committed to at least two full days training and development for all members each year.

SACAT has published 'our commitment to you' on the SACAT website setting out our undertakings to tribunal users. SACAT has also launched a website page 'Our Service' where performance data is published which is reviewed and refreshed ongoing.

There has been a focus on the continuous improvement of our suite of digital services although further work is planned for the coming year.

A comprehensive report of the implementation progress of all the Bleby review recommendations is available on the SACAT website.

Significant SACAT decision relating to tenancies matters involving parties who are residents in different states

On 5 June 2018, the Tribunal determined, in a case called *Raschke v Firinauskas*, that the Tribunal is not entitled to decide a case under the *Residential Tenancies Act 1995* between a landlord who was resident in Victoria and tenants who are resident in South Australia.

The Tribunal determined that it lacked the jurisdiction to hear and decide the case because the Tribunal is not a court and is not authorised to make decisions involving cases between residents of different states. This follows a decision of the High Court in *Burns v Corbett* in relation to the interpretation of a particular provision in the Australian Constitution.

The effect of the decision is that the Tribunal cannot decide any disputes between landlords and tenants under the *Residential Tenancies Act* where one party is an interstate resident. It does not set out whether the Tribunal can hear other sorts of applications and disputes between residents of different states under different laws.

The Government has now responded and introduced the *Statutes Amendment (SACAT Federal Diversity Jurisdiction) Bill 2018* in the House of Assembly on 7 June 2018. The Bill proposes to amend the *Magistrates Court Act 1991* and the *South Australian Civil and Administrative Tribunal Act 2013* so that the Magistrates Court is able to exercise all the powers and functions of SACAT in dealing with matters in which SACAT may be unable to because the matter involves an exercise of federal diversity jurisdiction. SACAT will be able to make orders transferring the matter to the Magistrates Court with no separate application or fee to the court required.

Section B: Reporting required under any other act or regulation

Name and date of act or regulation

South Australian Civil and Administrative Tribunal Regulations 2015

Section/regulation number and reporting requirement specified (extract straight from act or regulation – can be pasted).

12—Annual report

Pursuant to section 92(3) of the Act, a report under section 92 of the Act must include the following particulars of all warrants issued by the Tribunal under the *Guardianship and Administration Act 1993* during the financial year to which the report relates:

- (a) the number of warrants issued during the financial year – 1;
- (b) the status of the applicants for the warrants - Guardian;
- (c) the age, sex and details of the mental incapacity of the persons to whom the warrants related – 93, female, advanced dementia of mixed aetiology (Alzheimers and Vascular) ;
- (d) the grounds on which the warrants were issued – failure to comply with requirement of s69(1) of G & A Act (Direction to undergo assessment by suitably qualified health professional to assess mental capacity) and reasonable grounds that person has a mental incapacity
- (e) the action taken under the warrants: Warrant used to allow access to home but subject person not removed from premises and was examined following discussion with carer and assessed by geriatrician in her home.

Section C: Reporting of public complaints as requested by the Ombudsman

Summary of complaints by subject

Public complaints received by the South Australian Civil and Administrative Tribunal	
Category of complaints by subject	Number of instances
Process and Procedure	40
Member Conduct	22
Other	15
Service Quality	15
Delays	3
TOTAL	95

Complaint outcomes

Nature of complaint or suggestion	Services improved or changes as a result of complaints or consumer suggestions
In relation to service delivery complaints, an explanation is provided to complainants and areas for reform are continuously monitored	A total of 63 complaints resulted in services being improved either through improved explanations provided or changes to service operations recommended. This is in the context of 26,142 applications received in 2017-18.
Complaints are considered as part of the member and employee performance appraisal processes. Explanation provided, conduct discussed with Member or employee where appropriate and/or complainant informed of their right to appeal.	A total of 8 complaints resulted in a Member or employee being counselled.
Internal Review sought by complainant	A total of 3 complaints resulted in an Internal Review being sought.
Unsubstantiated or complaint referred to another area (outside of SACAT) or other result.	A total of 21 complaints were investigated and either unsubstantiated or referred to another area or the outcome did not fall into one of the above categories.