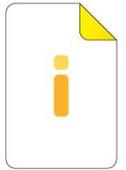


Applications for Internal Review of a decision made by the Community Stream of SACAT



What is an Internal Review?

If you disagree with a decision of SACAT and believe the decision is incorrect or that a different decision would be preferable then you have the right to request that the decision be reviewed by a different person within SACAT.

Before an Internal Review can be conducted, 'leave' or permission for a review must first be granted by the President, Deputy President or a legal Tribunal Member.

When determining whether to grant permission, SACAT will consider the interests of justice, whether there is an arguable point and whether the subject matter of the Internal Review has sufficient substance to justify consideration.

During an Internal Review hearing, SACAT will examine the first decision and may allow further evidence or material to be presented to it.

The Internal Review usually involves a hearing where the parties have the opportunity to speak and give relevant documents to SACAT, just like the first hearing.

SACAT will reach the correct and preferable decision, and may affirm, vary or set aside the decision that is being reviewed.

Who can apply?

If you are a party to the decision you have a right to seek an internal review. If you are not a party, you must have a 'proper interest' in the matter to challenge it.

Time limitations

An application for Internal Review must be made within one month of the previous decision.

If an application for Internal Review is lodged outside of the one month time period, SACAT can extend the timeframe if it considers that it is just and reasonable to do so.

If you are seeking an extension of time to lodge your internal review application, you should include a written request in your application, which states the reasons why you could not file within the one month time period. You should not assume that an extension of time will be granted.

Fees and charges

Please refer to the SACAT website for up to date information on applicable fees and fee waiver information: <http://www.sacat.sa.gov.au/bringing-a-case/fees>

SACAT may waive that fee in some circumstances. If the person who is the subject of the order lodges the application, the application fee is not applicable as the Person the order is about is fee exempt.

SACAT does not consider the application to have been received until any applicable fee has been paid or waived by SACAT.

Fees can be paid on-line at the time of lodgement. Alternatively, there is an option to 'pay later' on the application form. If you select this option, you will be issued with an invoice and be provided 7-14 days to make payment.

If you do not make the payment in time the application is 'stayed', which means that SACAT will take no further steps to progress your application.

Putting the previous decision 'on hold' or requesting a 'Stay'

Lodging an application for Internal Review does not place the first decision on hold or stop the order from operating.

To request that the previous decision be put on hold (a Stay), you will need to specify either on the application or in writing to SACAT that you are seeking to have the previous order put on hold.

This request for a Stay will need to be supported by appropriate grounds or documentation.

To decide whether a Stay is made, SACAT will need to consider whether you have an arguable case, and the consequences for each of the parties if the Stay is not granted.

Legal representation

For Guardianship and Administration and Mental Health Internal Review matters, the person the Order is about has the right to have legal representation arranged for them. This will be organised by SACAT through the Legal Services Commission at no cost to the person.

To arrange legal representation, the person that the Order is about needs to advise SACAT that they seek representation. If the person the order is about has a Guardian who has the power to make legal decisions on their behalf, they may also advise SACAT.

Consent can be provided on the application form, via telephone, email or in person.

The legal representation is arranged through the Legal Services Commission from a panel of approved Practitioners. The legal representation provided is only offered to the person the Order is about.

Expectations of legal representatives

Legal representatives of a party are expected to file with SACAT a Notice of Acting.

Legal representatives must ensure that they comply with all legislative requirements, orders and directions of SACAT within the stipulated time limits.

SACAT will make contact with parties through their legal representative. It is important the legal representative informs their client of hearing dates and other important information.

Expectations of interested persons

All interested persons from the matter under review will be given notice of the Internal Review. Each interested person is expected to respond to SACAT to advise whether they would like to be involved with the Internal Review. If so, they should indicate in writing the basis of their interest in the matter.

Subject to the directions of SACAT, interested persons may be invited to attend the full hearing of the matter once it has been listed.

Directions Hearings and Full Hearings

The matter will be listed for a Directions Hearing within 21 days following commencement of the Internal Review application. SACAT will first ensure that all (known) interested parties are notified of the Internal Review application and that legal representatives have been appointed.

A copy of the transcript of evidence and the reasons for the first decision will be produced, but these documents may not be available at the first Directions Hearing.

A Directions Hearing is a preliminary hearing to discuss how the Internal Review will progress and give directions to the parties. The SACAT Member may require more than one Directions Hearing in the course of the matter before a Full Hearing is scheduled.

A Directions Hearing will deal with procedural matters. If a party is represented, only their legal representative is required to attend. Not all parties will be invited to a directions hearing but a party can apply to attend if they wish. If you want to attend a Directions Hearing, please notify the Tribunal.

At the first Directions Hearing, the SACAT Member will consider matters relevant to the progression of the application for Internal Review including (but not limited to) the following:

- if the application has been made in time (i.e. within one month of the decision under review);
- if the applicant is a person with a proper interest in the matter;
- consideration of legal representation for the Protected Person (if not already arranged);
- release of documents to parties; and
- timeframes for lodgement of relevant documents and further submissions

A Full Hearing is where SACAT reviews the evidence and decision from the original hearing together with any further evidence it allows to be called on.

All persons with a proper interest in the matter may attend, subject to the power of SACAT to exclude persons from part or all of the hearing.

SACAT will invite parties to attend a Full Hearing in person. If a party is located in a hospital, a prison or in a regional location, SACAT may arrange participation via video or telephone conference.

SACAT will make what it considers to be the correct and preferable decision. A decision is either made at the time of hearing or at a later date, usually within 21 days.

Evidence and documentation

When the matter proceeds to a Directions Hearing, the Tribunal Member *may* give directions to the parties to provide further documentation, request Amended Grounds of Review from the applicant or seek an Outline of Argument from parties.

However, an Internal Review will proceed primarily on the basis of the evidence that was before SACAT at the original hearing as well as the transcript of the hearing (if available).

Additional evidence will only be allowed if SACAT is satisfied that it is in the interests of justice for such evidence to be considered.

Parties may tell SACAT what they think the correct or preferable decision should be (either in writing or verbally at the Full Hearing).

Please note any evidence submitted may be circulated to other relevant parties unless SACAT has made an order to the contrary.

Options for submitting your review of a SACAT decision

If you wish to file an application for Internal Review, you can do so using one of the following options:

- **On-line**
 - Complete the online application form at www.sacat.sa.gov.au.
 - Search the word 'internal' in the search field to select the correct application type.
- **Visit us in person**
 - Visit SACAT's office at either Level 4 or Level 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.
 - SACAT staff can assist you to lodge an application.
- **Telephone**
 - You can reach us on our free call number 1800 723 767 (press 1 and then 6) and ask for assistance in completing the on-line review application.
- **By letter**
 - Write us a letter and email or post it to us.
 - You must include all the information required by the SACAT Rules.

For matters concerning mental health, if you are the person that the order is about, you can submit a hardcopy Mental Health Review form which can be found in the hospital ward or can be found on the SACAT website: <http://www.sacat.sa.gov.au/forms-guides-and-resources/forms>

What happens after SACAT has made a determination on Internal Review?

Once SACAT has made a decision in relation to the Internal Review application, the decision cannot be challenged further within SACAT.

If you are dissatisfied with SACAT's Internal Review decision, you may ask the Supreme Court of South Australia for permission to appeal.

You can contact the Supreme Court on **(08) 8204 0289** for all queries concerning pursuing an appeal.

This fact sheet does not constitute legal advice and does not relate to the circumstances of any individual matter