

Internal Review Procedure

1. Purpose

The Internal Review Procedure provides instruction and guidance for staff managing enquiries or applications for Internal Review under section 157 of the [Children and Young People \(Safety\) Act 2017](#) (CYPS Act) and section 25A of [Births, Deaths and Marriages Registration Act 1996](#).

2. Scope

The procedure applies to all Department for Child Protection (DCP) staff when receiving or managing enquiries or applications from the public (parents, families, carers, carer advocate groups, children and young people in care) for an Internal Review pursuant to section 157 of the CYPS Act.

Only certain decisions made by DCP can be subject to an Internal Review. These decisions are referred to as 'reviewable decisions'. These decisions are:

- All decisions made under Chapter 7 of CYPS Act, excluding a decision made under Part 4 of that Chapter (being decisions about contact arrangements);
- Decisions made under Section 25A of the *Births, Deaths and Marriages Registration Act 1996*.

Decisions made under section 153 of CYPS Act (to refuse to provide a document or information, or to provide a document in redacted form) can also be reviewed pursuant to Section 154 of the CYPS Act. The DCP Freedom of Information team is responsible for receiving applications for Internal Review of decisions made under Section 154 of the CYPS Act. Refer to the [Provision of Information to Care Leavers Guideline](#) for more information. This is outside the scope of this procedure.

3. Authority

3.1 Legislative Context

This guidance should be read in conjunction with the following:

- [Children and Young People \(Safety\) Act 2017](#)
- [Children and Young People \(Safety\) Regulations 2017](#)
- [Births, Deaths and Marriages Registration Act 1996](#)

3.2 Whole of Government Requirements

DCP adopts Ombudsman SA essential components of an effective complaints and feedback management system including the [Ombudsman SA: An Audit of State Government Agencies' Complaint handling November 2014](#).

3.3 DCP requirements

Not applicable.

4. Procedure Requirements

4.1 Applicant lodging an application for Internal Review

An application for [Internal Review form](#) must be used for lodging Internal Review applications.

Applications for an Internal Review can be made:

- In person at any DCP office;
- Email: DCPComplaintsandFeedback@sa.gov.au
- Telephone: 1800 003 305
- Post: Complaints and Feedback Management Unit, GPO Box 1702 Adelaide, 5001.
- Online: [Department for Child Protection Website](#)

Should a local DCP office receive an application for Internal Review, they must forward it to the DCP Complaints and Feedback Management Unit (CFMU) via email within two working days.

DCP staff can offer assistance to an applicant to complete the application form. The use of [interpreters or translators](#) should be offered as required.

If a Foster or Kinship Carer wishes to seek an Internal Review, they may access support from [Connecting Foster & Kinship Carers SA](#), the peak body for Carers.

If a child or young person wishes to seek an Internal Review, they may also be assisted to complete the application form by another trusted adult (such as their foster or kinship carer).

4.2 DCP assesses eligibility of an Internal Review application

All applications for Internal Review are registered and reviewed by the CFMU Assessment Resolution Officer (ARO), in consultation with the Manager and Legal Services if required, to determine whether or not they relate to decisions that are within the scope of Section 157 of the CYPS Act. If some or all of the application is within scope the review process is initiated.

4.2.1 DCP assesses application

In assessing whether the application is in scope, the CFMU considers the following:

- **Is the decision a reviewable decision?**

Only decisions made by the Chief Executive (CE) or their delegate made under Chapter 7 of the CYPS Act (excluding Part 4) are eligible for internal review.

The CYPS Act does not define 'decision'. The CFMU will consult with DCP Legal Services if there is uncertainty about whether or not a decision is eligible for an Internal Review.

Only a person aggrieved by a decision is entitled to seek a review pursuant to Section 157 of the CYPS Act.

- **Was the application for Internal Review made within 30 calendar days after which the applicant was given notice of the decision? If not, is there good reason for the CE/delegate to allow a longer period to make the application?**

An application for an Internal Review must be made within 30 calendar days from the day on which written notice of a decision was given to the applicant under Chapter 7 of the CYPS Act. The right to seek Internal Review will be articulated in the formal written notice of decision.

Applications for an Internal Review made outside of this timeframe are at the discretion of the CE or delegate, taking into consideration any exceptional circumstances that may exist as well as principles of procedural fairness. The reasons for the delay in bringing the application must be ascertained and assessed. If the applicant was not informed of the right to a review at the time of the decision, and C3MS notes support this, as a matter of procedural fairness, the application for extension should be granted.

The purpose of an Internal Review is to determine what the correct and preferable decision is at the present time (not for the purpose of ascertaining whether a decision was correct at the time that it was made). Where an application for review is made outside the 30-day timeframe, consideration will be given to whether the potential outcome of any review is likely to affect the applicant's current rights. If not, it may be more appropriate to ask the applicant if they consent to having the matter managed as a complaint through the [Complaints and Feedback Management Procedure](#).

4.3 DCP general acknowledgement

The ARO will provide written acknowledgement of receipt of the application to the applicant within two business days. Where the application is assessed as being within scope, the letter will address:

- the anticipated timeframe for the review to be completed; and
- notice that the applicant may be contacted by the reviewer.

Where only part of the application for Internal Review is determined to be in scope, the applicant will be advised in writing what part of their application is out of scope. Information about any other appropriate pathways or authority for their grievance will be also be provided.

Where an application for an Internal Review is determined to be outside the scope for Internal Review, DCP CFMU will complete the relevant acknowledgement letter advising that the application is outside the scope for internal review. The letter will include:

- the reason why the application is out of scope; and
- information on any other appropriate pathways by which the applicant may have their grievance dealt with (for example, to be assessed as a general complaint or through referral to the Minister or Ombudsman SA).

4.4 Client records

To assist with the review, client records are requested from the relevant DCP office via the Client Management System (C3MS). The ARO will contact the relevant office DCP case worker who then must provide the requested information within five business days.

4.5 Referral of application to reviewer

DCP has identified a pool of suitably qualified and experienced senior DCP staff to undertake Internal Reviews. The ARO matches the application with an endorsed Reviewer (the reviewer). Applications are matched to the Reviewer with the skill set appropriate to the application. Where an application for an Internal Review has been made by an Aboriginal applicant (or in respect of an Aboriginal child or young person) the reviewer will seek knowledge and understanding of cultural considerations and the five elements of the Aboriginal Child Placement Principle through consultation with a Principal Aboriginal Consultant and related policies and practice guidance [Aboriginal and Torres Strait Islander Child Placement Principle Practice Paper](#) and [Placing Aboriginal and Torres Strait Islander children](#).

The reviewer must not have had any previous involvement in or oversight of the making of the original decision and must not be situated at the same DCP region that the child/ren or young person/s is assigned to.

The ARO provides all relevant information from C3MS to the reviewer. The Reviewer or other person to conduct the review may seek transfer of a review to another delegate, for example due to unexpected leave. If this occurs, the review must be returned to the ARO for re-allocation immediately.

4.6 Internal Review undertaken by the reviewer

In an Internal Review, the reviewer will consider the legislative framework and whether the legal power/discretion has been exercised in a way that is consistent with DCP guidance and is procedurally fair. The reviewer should undertake an assessment of all current circumstances including any new information that is available to determine what the correct and preferable decision is at the time of the review. The reviewer should consider and address the following questions to determine whether to recommend to confirm, vary or overturn the decision:

- Was Departmental DCP guidance and relevant legislation considered and correctly applied?
- Were the applicant's circumstances and all relevant information fairly and appropriately considered?
- Does there appear to be any bias or prejudice involved on the part of the original decision maker?
- Did any irrelevant information affect the decision?
- Is there new, relevant information available?
- What is the correct and preferable decision at the present time taking into account all of the available information and applying the relevant policies and legislation?
- If a child or young person is able to form their own views on the matter subject to review, what are the child or young person's current views and have those views been given due weight?

The reviewer is required to consider the information contained within the application. The reviewer should contact the applicant to discuss their application unless there are exceptional circumstances preventing this. Notes of any such discussion are to be recorded in the final report. The reviewer can also contact the original decision maker where necessary to clarify any aspect of their decision making.

As a matter of procedural fairness, the applicant should be given the opportunity to make submissions, provide further information and comment on the proposed decision of the reviewer prior to the review being finalised and an outcome reached.

When conducting an Internal Review about a decision relating to an Aboriginal child or young person, specific consideration must be given to the five elements of the Aboriginal Child Placement Principle (Prevention, Partnership, Participation, Placement and Connection, including the precursor Identification) and related policies and practice guidance [Aboriginal and Torres Strait Islander Child Placement Principle Practice Paper](#) and [Placing Aboriginal and Torres Strait Islander Children](#). The reviewer must consult with a Principal Aboriginal Consultant who has not been involved with the decision. Details from this consultation must be recorded in the review report.

All Internal Reviews should be completed within 60 calendar days from DCP acknowledgement of receipt. If it is anticipated the review will take longer than 60 calendar days due to the review being complex or there being significant new information, the reviewer should notify the Internal Review ARO who will inform the applicant of the delay by email.

The original decision will remain in effect while the Internal Review is being undertaken. Any queries in regards to case management of the decision must be directed to the relevant DCP office.

If the decision is superseded before the Internal Review is completed, then an Internal Review of the original decision cannot proceed. The applicant will be advised by the Internal Review ARO, that the original decision no longer has any operational effect and they will be informed in writing of their right to seek a review of the superseding decision (if they are aggrieved by the decision).

If a decision is varied before the completion of the Internal Review, it will need to be determined whether the original application for review relates to any aspects of the original decision which still has operational force. The review can only proceed in respect of the aspect of the original decision that continues to be in force. If not, then the Internal Review cannot proceed and the applicant must be informed in writing of their right to seek a review of any aspects of the varied decision about which they are aggrieved.

4.7 Reviewer to document outcomes in an Internal Review Report

The reviewer must, as soon as reasonably practicable, complete the Internal Review Report and recommend one of the following:

- Confirm the original decision (the decision is not changed); or
- Vary the original decision (part or all of the decision is changed or reconsidered); or
- Reverse and cancellation of the original decision.

The completed Internal Review Report and recommendation, together with any other information, is then provided to the CFMU. The ARO will review the Internal Review Report to ensure all requirements have been met prior to forwarding the draft and information to DCP Legal Services at dcp.legal@sa.gov.au for review.

Following review by DCP Legal Services, the CFMU will return the Internal Review Report to the reviewer for signing. Once the Reviewer has signed the Internal Review Report, they must return it to the ARO who will provide it to the Executive Director, Service Delivery and Practice or approval. If the Executive Director, Service Delivery and Practice has been involved in the initial decision an approved delegate i.e. another Executive Director can approve. Once the Executive Director has endorsed the decision and signed the Internal Review Report, DCP Legal Services will draft a letter and forward it to the ARO for final administrative requirements. It should be noted that the delegate who endorses the Internal Review Report has the ultimate responsibility for making the decision and must be satisfied of this before signing the report.

4.8 Outcome process

Once the delegate endorses the report, the CFMU will ensure that the outcome letter to the applicant will provide notice of:

- the decision; and
- the right of the person to have the decision reviewed by the South Australian Civil and Administrative Tribunal (SACAT).

In preparing this written notice, reference will be made to:

- the relevant legislative framework;
- the original decision that was made and when the applicant received notification of the decision;
- relevant departmental DCP guidance referred to during the Internal Review (excerpts can be attached if appropriate);

- details of any interaction with the applicant during the review process;
- the reasons for the decision;
- all of the documents that were considered by the reviewer;
- the facts upon which the decision is based.

DCP Legal Services will provide the outcome letter to the ARO who will obtain endorsement from the DCP Executive Director. Once endorsement is obtained, the ARO will then upload the final document to C3MS and then provide to the applicant by notice in writing. The ARO will telephone the applicant to inform them of the outcome prior to mailing out the letter.

DCP will provide the outcome of the Internal Review to any person whose interests are affected by the decision, by formal notice in writing. This may include the child or young person to whom the decision relates, a carer or a parent/guardian. An assessment of who should receive this notice is to be decided on the facts of the case and the decision made, and can be done in collaboration with the reviewer. All records relating to this should be recorded in C3MS under the specific child's or young person's name.

Where the applicant is a child or young person, the form of notice will be appropriate for the child or young person's age and developmental capacity.

4.9 External review

Where applicable, applicants and others whose interests are affected by the decision, must be informed of their right to seek an external review by the SACAT. The SACAT has jurisdiction to hear reviews of decisions under Chapter 7 of CYPS Act (excluding Part 4 of that Chapter) and section 25A of the *Births, Deaths and Marriages Registration Act 1996*, which have already been subject to an Internal Review by DCP.

An applicant, the child or young person to whom the decision relates and any other person aggrieved by the decision (and who, in the opinion of SACAT, has sufficient interest in the matter) is entitled to make an application to SACAT for a review of the reviewable decision. Therefore, there is no requirement that the party seeking the review by SACAT must be the same party as that who sought the Internal Review.

Generally, an application for review of a decision by SACAT must be lodged within 28 days from the date that the Internal Review outcome letter is sent. In special circumstances, SACAT may permit the applicant to make an application after this time.

If an application for external review is lodged with SACAT, all documentation relating to the original decision and the Internal Review will be required. The DCP Legal Services will advise the CFMU when a SACAT application is received. The CFMU will provide DCP Legal Services with a copy of all documents considered by the reviewer within three business days (including the day they are notified).

If an applicant remains aggrieved by a decision and the SACAT pathway is not available, the applicant may refer the matter to the Ombudsman SA:

- Telephone: (08) 8226 8699
- Toll free: 1800 182 150 (outside metro SA only)
- Facsimile: (08) 8226 8602
- Email: ombudsman@ombudsman.sa.gov.au Street address: Level 9, 55 Currie Street, Adelaide SA 5000 Postal address: Ombudsman SA, PO Box 3651, Rundle Mall SA 5000

5. Compliance, Monitoring and Evaluation

The Internal Review Procedure will be reviewed three years from approval, or earlier if required by legislative or organisational imperatives.

The DCP CFMU Manager will also monitor and evaluate the adequacy of the procedure in meeting legislative, departmental and other requirements on an ongoing basis.

6. Related Documents

Related documents, forms and templates
Complaints and Feedback Management Policy
Provision of Information to Care Leavers Guideline
Placing Aboriginal and Torres Strait Islander children
Aboriginal and Torres Strait Islander Child Placement Principle Practice Paper

7. Glossary

Term	Meaning
Applicant	The person/s who has made an application for an Internal Review of a decision.
Complaint	Expression of dissatisfaction made to or about DCP related to its services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly required.
DCP	Department for Child Protection
Reviewable decision	A decision made by the Chief Executive or their delegate or a child protection officer under Chapter 7 (excluding Part 4) of the CYPs Act that may be subject to a formal Internal Review or external review by SACAT.
Procedural fairness	<p>Procedural fairness requires a fair and proper process to be used with making decisions that may adversely affect the interests of an individual. The rules of procedural fairness require:</p> <ul style="list-style-type: none"> • a hearing appropriate to the circumstances • lack of bias • evidence and reasons to support a decision • inquiry into matters of dispute <p>Used interchangeably with “natural justice”.</p>

Term	Meaning
Endorsed Reviewer	The DCP Staff member endorsed by Executive Director, Service Delivery and Practice to undertake an Internal Review.
South Australian Civil and Administrative Tribunal (SACAT)	SACAT is a state tribunal that helps South Australians resolve issues within specific areas of law, either through agreement at a conference, conciliation or mediation, or through a decision of the Tribunal at hearing. SACAT also conducts reviews of Government decisions.

Document Control

Reference No./ File No.			
Document Owner	Lead Writer (position)		
Directorate/Unit: Complaints and Feedback Management Unit	Senior Project Officer		
Accountable Director: Executive Director, Service Delivery and Practice			
Commencement date	25 August 2023	Review date	7 August 2026
Risk rating	Consequence Rating	Likelihood	Risk Rating
Risk Assessment Matrix	Moderate	Unlikely	Moderate

REVISION RECORD		
Approval Date	Version	Revision description
4 September 2020	1.0	Final
7 August 2023	2.0	Review in accordance with the DCP policy review cycle.