

Complaints, Reviews and Appeals in Child Protection Matters

Action/Decision	Complaint, Review or Appeal To	By whom?	Grounds or Criteria?	Timeframe	Possible outcome/s
<p>Prescribed child protection complaints relating to health or community services that:</p> <ul style="list-style-type: none"> • are provided to a child who may be or who has been at risk • involve a notification (whether mandatory or otherwise) of a suspicion that a child may be at risk • involve an investigation of a case where a child may be at risk • are provided to a child who is in the custody or guardianship of the Minister or someone else under the Act <p>and the provision of the service consists of an administrative act.</p> <p>Particular complaints may be included or excluded from the definition by regulation.</p> <p>HCSC Act 2004 (SA) s 28A(8)</p>	<p>Ombudsman</p> <p>HCSC Act 2004 (SA) s 28A</p> <p>However, the complaint should first be made to departmental staff or the Department's Central Complaints Unit on 1800 003 305.</p>	<p>Any person or body directly affected by the administrative act (or a suitable representative of that person)</p> <p>Ombudsman Act 1972 (SA) s 15 (3a)</p>	<p>Administrative act contrary to law, unreasonable, unjust, oppressive, improperly discriminatory; done for improper purpose or on irrelevant grounds, done without reasons being given, based on mistake of law or fact or just plain wrong s 25</p> <p>Ombudsman may investigate complaint even though another avenue of appeal or review available s 13(3b)</p> <p>Whether the Charter has been given effect to and any code of conduct that applies s 13 (3e)</p> <p>Ombudsman Act 1972 (SA)</p>	<p>12 months from the date they knew of the administrative act</p> <p>Ombudsman Act 1972 (SA) s 16</p>	<p>Refusal to entertain or continue investigation s 17; Conciliation s 17A; Referral back to Department for further consideration; action recommendation to rectify, mitigate or alter affects of administrative act; recommendation to vary practice or amend or repeal law, recommendation to give reasons for action or take any other steps s 25</p> <p>Ombudsman Act 1972 (SA)</p>

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Prescribed child protection complaints that are <u>not administrative acts</u> , or other matters referred back from Ombudsman in accordance with administrative arrangement between them	HCSCC HCSC Act 2004 (SA) s 28A However, the complaint should first be made to departmental staff or the Department's Central Complaints Unit on 1800 003 305.	A health or community service user about the service used HCSC Act 2004 (SA) s 24	Whether service providers action was reasonable with regard to the Charter, the Act and the generally accepted standard of service of that kind HCSC Act 2004 s 85	2 years from the circumstances giving rise to the complaint HCSC Act 2004 (SA) s 27(1)	Refusal to take action on complaint s 33; Conciliation s 35; Report with comments, opinions, recommendations for action s 54; conditions on or prohibitions of service sections 56B and 56B HCSC Act 2004 (SA)
Chapter 7 decisions of the CE, which may include those relating to: <ul style="list-style-type: none"> approval of carers, foster care agencies and children's residential facilities placement, education and medical arrangements for children and young people direction not to communicate with, harbour or conceal suitability of long-term guardians <p><u>But not decisions which comprise prescribed child protection complaints</u> CYPS Act 2017 (SA) s 158(1) (a) and (2)(a)</p>	SACAT CYPS Act 2017 (SA) s 158 (1) However, an application for internal review must be made first and within 30 days of decision CYPS Act 2017 (SA) ss 157(2)(b) and 158(2)(a)	Applicants for approval as/or approved carers, foster care agencies and residential care facilities, an applicant in respect of an internal review, a child or young person to whom the decision relates or any other person	Did the Chief Executive make the correct and preferable decision? SACAT Act 2013 (SA) s 34(4)	Within 28 days of outcome of internal review CYPS Act 2017 (SA) s 158(4)	Invitation from tribunal to decision-maker to re-consider decision s 38; Affirm, vary, set aside and substitute decision or send matter back with appropriate directions and recommendations s 37 SACAT Act 2013 (SA) ss 37 and 38

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		aggrieved by a decision and who has a sufficient interest CYPS Act 2017 (SA) s 158 (3) CYPS Regulations 2017 (SA) reg 40A			
Chief Executive's direction to change child or young person's name	SACAT BDM Registration Act 1996 (SA) s 25A CYPS Act 2017 (SA) s 157 BDM Registration Regulations 2011 (SA) reg 6A	Guardian of child or young person, biological parent or co-parent of child or young person, or the child or young person BDM Registration Regulations 2011 (SA) reg 6A	Did the Chief Executive make the correct and preferable decision? SACAT Act 2013 (SA) s 34(4)	Within 28 days of outcome of internal review BDM Registration Regulations 2011 (SA) reg 6A	Invitation from tribunal to decision-maker to re-consider decision s 38; Affirm, vary, set aside and substitute decision or send matter back with appropriate directions and recommendations s 37 SACAT Act 2013 (SA) ss 37 and 38

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Contact arrangements	Contact Arrangements Review Panel CYPS Act 2017 (SA) s 95(1)	The person allowed or refused contact with a child or young person under the guardianship, or in the custody, of the Chief Executive, or the child or young person themselves CYPS Act 2017 (SA) s 95(1)	Determined with reference to the likelihood of reunification	Within 14 days of Chief Executive's determination CYPS Act 2017 (SA) s 95 (2) (a)	No review conducted s 95(4); Affirm, vary or set aside and substitute or send back for re-determination with directions or recommendations s 95(5) CYPS Act 2017 (SA)
Orders of the Youth Court	Supreme Court Youth Court Act 1993 (SA) s 22 (2)	A party to proceedings Youth Court Act 1993 (SA) s 22(1)	Appeal is by way of re-hearing, so the court may draw inferences of fact from evidence at original hearing or hear further evidence, amend or set aside the judgment and give judgment afresh, remit the case for re-hearing or make orders as to costs of the appeal Supreme Court Civil Rules 2006 (SA) r 286	Within 21 days of date of order Supreme Court Civil Rules 2006 (SA) r 281	Confirm, vary or quash the judgment, or remit matter for re-hearing or further hearing Youth Court Act 1993 (SA) s 22(3)