



# Child Support Review Directions

These Directions are given under section 18B of the *Administrative Appeals Tribunal Act 1975*.

## About these Directions

### 1. Name of Directions

These Directions are the *Child Support Review Directions*.

### 2. Commencement

- (1) These Directions have effect from 1 April 2019.
- (2) The Child Support Review Directions dated 30 June 2015 are revoked.

### 3. Interpretation

- (1) An expression that is used in the *Administrative Appeals Tribunal Act 1975* has the same meaning, when used in these Directions, as in that Act.

- (2) In these Directions:

**AAT** means the **Tribunal** as defined in subsection 3(1) of the **Act**.

**Act** means the *Administrative Appeals Tribunal Act 1975*.

**child** means a person under the age of 18 years who is not a party.

**CSRC Act** means the *Child Support (Registration and Collection) Act 1988*.

**Child Support Registrar** means the person referred to in section 10 of the **CSRC Act**.

**Department** means the Department in which the Child Support Registrar is an employee.

**Deputy Division Head** means a Deputy Head of the Social Services and Child Support Division.

**Division Head** means the Head of the Social Services and Child Support Division.

**family violence order** means an order (including an interim order) made under a law of a State or Territory prescribed under the *Family Law Regulations 1984* to protect a person from family violence.

**hearing** means the hearing of an application for a **review**.

**lawyer** means a person who has been admitted to practise law in an Australian jurisdiction and who holds a current practising certificate.

**NAATI** means the National Accreditation Authority for Translators and Interpreters Ltd.

**party** means a person referred to in subsection 30(1) of the Act or in section 95D of the **CSRC Act**, other than the Child Support Registrar.

**presiding member** means the member who will preside at the hearing whether or not the AAT is constituted by one or more members.

**personal information** means information or an opinion about an identified individual or an individual whose identity is apparent from the information or opinion:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in material form or not.

**representative** means a person whom the AAT permits to represent a **party**.

**review** means the review of a decision specified in section 89 of the CSRC Act.

**we** or **us** mean the **AAT**, including the staff of the AAT.

**you** means a **party**.

#### 4. Application of these Directions

These Directions apply to an **AAT first review** (within the meaning of section 89 of the **CSRC Act**). Unless the contrary intention appears, they do not apply to an **AAT second review** (within the meaning of section 96A of the **CSRC Act**).

### Extension of time

#### 5. Application for extension of time

- (1) If you need an extension of time, you must apply in writing and include in your application your reasons for failing to apply in time as well as any submissions and documents which you wish us to take into account.
- (2) We will request the Department to give us the documents referred to in subsection 37(1) of the Act.
- (3) We will not give notice of the extension of time application to any other person unless a member gives a direction to do so.
- (4) Your extension of time application may be decided by a member on the papers unless the member decides otherwise in your case.

### Application for review

#### 6. Written application

To make a written application for review, you should use the online lodgement facility or the form which are both available through our website ([www.aat.gov.au](http://www.aat.gov.au)).

#### 7. Details required for application

- (1) If you make an oral application for review, we will ask for and record:
  - (a) your name;

- (b) your residential address;
- (c) your postal address (if different from your residential address);
- (d) your email address;
- (e) any telephone number on which you can be contacted during our business hours;
- (f) the decision which you want us to review;
- (g) the date of that decision;
- (h) the date on which you received notice of the reasons for the decision; and
- (i) if you don't need an extension of time for making your application, your answers to any other questions on the application for review form.

## **8. Applications on behalf of another person**

- (1) To make an application for review on behalf of another person who may apply for review under section 89 of the CSRC Act, you or the person on whose behalf the application is being made must satisfy us that:
  - (a) you are a lawyer instructed by a person who may make the application; or
  - (b) you are the holder of a power of attorney authorising the commencement of legal proceedings; or
  - (c) you are the appointed guardian of the person who lacks legal capacity; or
  - (d) you are the executor or administrator of the deceased estate of the person.
- (2) If you make an application for review in one of the circumstances listed in paragraphs 8(1)(b) to (d), references in these Directions to a party are taken to include you.

## **9. Non-disclosure order to party**

We will make and issue non-disclosure orders, under subsection 35(3) or (4) of the Act, to you and any other party at the earliest opportunity to protect the confidentiality of personal information acquired through the review.

## **Documents to be given to us**

### **10. Documents for hearing**

- (1) The Department must give us a copy of the decision to be reviewed within 3 working days after receiving our notice of the application for review.
- (2) The Department must not, without our permission, redact any information in the documents which the Act or the CSRC Act requires it to give to us or to you, other than information listed in subsection (4).

- (3) You must give us the evidence and information specified in any directions which we give to you by the date specified in those directions.
- (4) Unless we direct otherwise, you may redact the following information from a document which you give us:
  - (a) your tax file number or passport number;
  - (b) your Centrelink client reference number or child support identification number;
  - (c) the number of the account on a bank statement (but not the numbers of any account to or from which money is transferred in the bank statement) other than the last four digits in that account number;
  - (d) your residential and postal addresses;
  - (e) your email address;
  - (f) your telephone number(s); and
  - (g) your employer's street address.
- (5) You must not redact any other information in a document which you give us without our permission.
- (6) You must give us any written submissions by the date specified in any directions which we give you.
- (7) If you are not directed to give us evidence, information or written submissions by a specified date, any document on which you intend to rely at the hearing must be given to us at least:
  - (a) 14 days before the hearing where no party resides outside Australia;
  - (b) 28 days before the hearing where a party resides overseas.
- (8) The Department must give us any written submissions, made under subsection 39AA(2) of the Act, in the timeframes specified in subsection 10(7) of these Directions.
- (9) The Department must give us any written submissions, made under subsection 39AA(5) of the Act, by the date specified in the order.
- (10) A document which is not given to us in accordance with subsections 10(3) to (7) will only be considered with the permission of the presiding member.

Note: Subsection 42A(5) of the Act permits the AAT to dismiss the application for review if the applicant fails to comply with a direction of the AAT in relation to the application.

## **11. Family violence order or history**

- (1) Within 14 days after making, or being notified by us of, the application for review, you must give us a copy of any current family violence order which you obtained against another party to the review.
- (2) You must also tell us if your whereabouts, including your residential address, contact details or place of employment, are not known to the other party due to a history of family violence.

- (3) If you obtain a family violence order against another party to the review after you make or have been notified of an application for review but before the hearing, you must give us a copy of the order as soon as practicable.

Note: Subsection 21(3) of these Directions prescribes how a party, against whom another party has a current family violence order, must make any oral submissions to the AAT.

## 12. Statement of financial circumstances

If we give you a “Statement of financial circumstances” form in relation to a review involving a decision under Part 6A of the *Child Support (Assessment) Act 1989*, you must complete and return the form to us within 14 days after receiving the form.

## 13. Request for another person to represent you at the hearing

- (1) If you want to be represented by another person at the hearing, you must seek our permission at least 21 days before the day of the hearing.
- (2) Your request must be made in writing and must state:
- (a) whether the permission is sought for the person to make oral submissions or written submissions or both;
  - (b) the name and contact details of the person;
  - (c) the relationship of the person to you;
  - (d) the reasons why you want to have the person make the submissions on your behalf.
- (3) We will give any other party a copy of your request and ask whether that party has any objection to it being granted.
- (4) If a written request is made less than 21 days before the day of the hearing or an oral request is made on the day of the hearing, the presiding member will decide how to deal with the request, including how to ask whether any other party has any objection.
- (5) We will not usually permit both a party and a representative to make submissions.
- (6) Even if you are represented, we may require you to answer questions at the hearing and may issue a notice under paragraph 95H(1)(c) of the CSRC Act for that purpose.
- (7) We will make and issue a non-disclosure order to a representative who is not a lawyer.
- (8) A copy of the order referred to in subsection (7) will also be sent to you.

Note: The matters which must be taken into account by the AAT in deciding whether to grant permission for a party to be represented by another person at the hearing are contained in subsection 32(3) of the Act.

## Disclosure of information by us

### 14. Documents given to us by a party

- (1) We will give a copy of any document you give us that we consider is relevant to the review (or the relevant part of a document) to the Department and any other party.
- (2) Subsection (1) does not apply if the other party asked us not to send him or her any documents or correspondence in relation to the review.
- (3) If you don't want us to disclose particular information to the other party, you must ask us not to disclose the information at a directions hearing or in writing, stating your reasons, at or before the time you give us the document containing that information.
- (4) Your request will be refused if withholding the information from the other party could adversely affect the fairness of the review.
- (5) We will not give you a document given to us by the other party which contains his or her personal information, or the personal information of another person, by electronic means without that party's consent.

Note: Subsection 10(4) of these Directions prescribes the information which a party can redact from a document without our permission. Section 33 of these Directions contains the procedures in relation to the AAT sending notices and other documents electronically.

### 15. Documents obtained by us from other persons

- (1) We will give the Department a copy of any document obtained under section 95H of the CSRC Act which is to be considered in the review.
- (2) We will give you a copy of any document we obtain by the exercise of our statutory powers if the document is to be considered in the review.
- (3) Unless a member directs otherwise, we will redact in the copy of a document referred to in subsection (2):
  - (a) the residential address or other contact details of a party, or the name or address of the party's employer, if there is a family violence order to protect that party;
  - (b) the residential address or other contact details of a party, or the name or address of the party's employer, if we have been advised that that information is not known to you due to a history of family violence;
  - (c) place names if the locality in which a party lives is not known to you due to a history of family violence;
  - (d) another party's tax file number or passport number;
  - (e) another party's Centrelink client reference number or child support identification number;
  - (f) the number of the account on a bank statement of another party (but not the numbers of any account to or from which money is transferred in the bank statement) other than the last four digits in that account number.

Note: Section 15 does not apply to documents which the Department sends to the AAT or to copies of those documents which subsections 37(1AE) and 38AA(2) of the Act require the Child Support Registrar to give to the parties.

## 16. Access to documents by representatives

- (1) We will not send a copy of any documents to a representative, who is not a lawyer, without the permission of a member.
- (2) You may give your representative access to documents given to you by the Department or us for the purposes of the review.

## 17. No access to certain documents

- (1) Before or after completion of the review, we will not give you, or any other person, access to a document containing:
  - (a) notes made by a member in preparation for, or in the course of, a directions hearing or hearing;
  - (b) any communication between our members, officers or staff in relation to the review.
- (2) After completion of the review, we will not give you or any other person access to a document containing personal information about another person unless the document was given to us by you or the person requesting it, respectively.

## 18. Communication of protected information

- (1) Subject to subsection (2), communication of protected information for the purposes of subsection 16(3A) of the CSRC Act will be made through the President, the Division Head or a Deputy Division Head.
- (2) A member may communicate protected information directly to another person, including a law enforcement authority, if the member considers that the threat to the life, health or welfare of a person is immediate.

## Directions hearing

### 19. Holding and attendance

- (1) If the review involves an application under Part 6A of the *Child Support (Assessment) Act 1989*, the presiding member will decide whether a directions hearing is to be held.
- (2) If the review does not involve an application under Part 6A of the *Child Support (Assessment) Act 1989*, the President, the Division Head or a Deputy Division Head will decide whether a directions hearing is to be held.
- (3) Any directions hearing will be held by telephone.
- (4) You are required to attend any directions hearing and will not usually be permitted to appear by a representative.
- (5) We will give you at least 7 days' notice of the day and time of a directions hearing unless you and any other party have agreed to a shorter notice period.

- (6) If you want us to adjourn the directions hearing, you must do all of the following:
  - (a) make a written request to us for the adjournment;
  - (b) make the request at the earliest opportunity before the date of the directions hearing that you want adjourned;
  - (c) state the reasons why you need an adjournment in your request; and
  - (d) attach any supporting documents to your request.
- (7) If you request an adjournment of a directions hearing before the date of the directions hearing, we will refer your request to the member conducting the directions hearing or, if that member is unavailable, to another member.
- (8) If you request an adjournment of a directions hearing on the day of that directions hearing, we will usually require you to make your request to the member at the commencement of the directions hearing.
- (9) If you fail to attend a directions hearing, we may:
  - (a) dismiss the application for review if you are the applicant; or
  - (b) direct that you cease to be a party to the review if you are not the applicant.

## **20. Recording of directions hearing**

- (1) We will make an audio recording of a directions hearing.
- (2) Unless subsection 20(3) applies, you must not make an audio, optical or automated speech recognition recording of any part of a directions hearing.
- (3) This subsection applies if you have a hearing, vision or other impairment that prevents you from making your own notes during a directions hearing.
- (4) If subsection 20(3) applies and you want to use an automated speech recognition application or other electronic recording device during the directions hearing, you must ask us for permission at least 14 days in advance of the directions hearing.
- (5) The views of other parties may be sought on your request and your request will be decided by the member who is to preside at the directions hearing.
- (6) If you are given permission to use an automated speech recognition application or other electronic recording device during the hearing, any record must not be used for any purpose unrelated to the review.
- (7) Subject to subsection 27(8), we will not give the audio recording, or a copy of the audio recording, of a directions hearing to you or any other person.



## Hearing of a review

### 21. Participation by telephone

- (1) You or your representative may ask us for permission to participate in the hearing by telephone or by means of other electronic communications equipment.
- (2) We will give permission unless participating in the hearing in that way could:
  - (a) affect the efficiency or effectiveness of the hearing;
  - (b) impede proper consideration of the review by us; or
  - (c) adversely affect the privacy of the hearing.
- (3) If there is a current family violence order against you, you must participate in the hearing by telephone or by means of other electronic communication equipment unless we have decided that the party protected by the family violence order is to participate by telephone.

### 22. Interpreters

- (1) We will not allow a relative or friend to interpret at a directions hearing or the hearing.
- (2) If you need the services of an interpreter at a directions hearing or the hearing, you must tell us within 14 days after making, or being notified of, the application for review.
- (3) If you are not proficient in English, we will arrange for an interpreter, accredited or recognised by NAATI in the relevant language, to attend any directions hearing and the hearing.
- (4) We will make an order directing the interpreter not to disclose personal information obtained by him or her in the course of the directions hearing or the hearing.

### 23. Adult persons who may be present at the hearing

- (1) At least 14 days before the hearing, you must tell us of any person (other than an interpreter or representative) whom you want to be present at the hearing.
- (2) If you want a person to be a witness and give evidence, you must also tell us in writing of the matters about which you want the person to give evidence.
- (3) We will advise the Department and any other party of any request received under subsection (1) or (2).
- (4) The presiding member will decide whether to take evidence from a witness.
- (5) A representative will not usually be permitted to give evidence at the hearing.
- (6) The presiding member will direct who may be present at the hearing or any part of the hearing.
- (7) The presiding member will direct a person present at the hearing (other than a party or representative) not to disclose personal information about any person obtained by him or her in the course of the hearing.

**24. No children at the hearing**

We will not allow a child to be present during the hearing.

**25. Giving evidence at the hearing**

- (1) You will be asked to take an oath or make an affirmation before giving evidence.
- (2) A witness will be asked to take an oath or make an affirmation before giving evidence at the hearing, and refusal to do so may result in the presiding member refusing to take evidence from the witness.
- (3) A witness attending before us to answer questions pursuant to a notice under paragraph 95H(1)(c) of the CSRC Act will be asked to take an oath or make an affirmation prior to answering the questions.
- (4) A witness will not usually be permitted to be present at a hearing before or after giving his or her evidence.

Note: Subsection 23(2) of these Directions prescribes what a party must do if he or she wants a person to give evidence to the AAT.

**26. Nature of a hearing**

- (1) The presiding member will decide how the hearing will be conducted and may ask you, any other party and any witnesses, questions.
- (2) A party or a representative will not be permitted to question another party or witness.
- (3) A party or representative may ask the presiding member to put a particular question to another party or witness.

**27. Recording of hearing**

- (1) We will make an audio recording of the hearing.
- (2) Unless subsection 27(3) applies, you or your representative or any other person present at a hearing must not make an audio, optical or automated speech recognition recording of any part of a hearing.
- (3) This subsection applies if you have a hearing, visual or other impairment that prevents you from making your own notes at a hearing.
- (4) If subsection 27(3) applies and you want to use an automated speech recognition application or other electronic recording device during the hearing, you must ask us for permission at least 14 days in advance of the hearing.
- (5) The views of other parties may be sought on your request and your request will be decided by the member who is to preside at the hearing.
- (6) If you are given permission to use an automated speech recognition application or other electronic recording device during the hearing, any record made must not be used for any purpose unrelated to the review.
- (7) Subject to subsection 27(8), we will not give the recording of the hearing, or a copy of the recording of the hearing, to you or any other person.

- (8) If you:
- (a) file an appeal against the AAT's decision under section 44 or 44AAA of the Act; or
  - (b) apply for a second review under section 96A of the CSRC Act;
- and want a transcript of the hearing, we will give a copy of the recording to our current provider of transcription services to prepare the transcript at your expense.

Note: See the note to section 35 of these Directions.

## **28. Adjournment requests**

- (1) If you want us to adjourn the hearing, you must do all of the following:
- (a) make a written request to us for the adjournment;
  - (b) make the request at the earliest opportunity before the hearing that you want adjourned;
  - (c) state in the request the reasons why you need an adjournment; and
  - (d) attach any supporting documents to your request.
- (2) If you request an adjournment of the hearing before the date of the hearing, we will refer your request to the presiding member or, if the presiding member is unavailable, to another member.
- (3) If you request an adjournment of the hearing on the day of the hearing, we will usually require you to make your request to the presiding member at the commencement of the hearing.

## **29. Failure to attend the hearing**

If you fail to attend the hearing, we may:

- (a) proceed to hear and decide the application for review in your absence; or
- (b) dismiss the application for review if you are the applicant; or
- (c) direct that you cease to be a party to the review if you are not the applicant.

## **30. Documents received after the hearing**

- (1) Unless the presiding member has given you permission to give us submissions or other documents after the hearing, such documents will not usually be taken into account and we will return them to you.
- (2) If the presiding member decides that a document received or obtained from any source after the hearing will be taken into account, he or she will decide whether to reconvene the hearing or invite a party to respond in writing to the document.
- (3) We will not usually allow a party to reply to another party's written response to a document received after the hearing.

## Reinstatement of an application

### 31. Request for reinstatement

- (1) If we have dismissed the application for review and you want us to reinstate it, you must tell us in writing why you are seeking reinstatement.
- (2) If you make an application for reinstatement more than 28 days after you receive our notice of the dismissal of the application for review, you must also explain your delay in requesting reinstatement.
- (3) We will give a copy of your reinstatement application to the Department and any other party with a notice that any submissions opposing reinstatement must be made in writing within 14 days after receiving the notice.
- (4) The application for reinstatement will be decided by a member on the papers unless the member decides otherwise in your case.

Note: Regulation 17 of the *Administrative Appeals Tribunal Regulation 2015* specifies how a document may be given to a person. Regulation 18 specifies that a document given electronically is taken to have been given on the day of dispatch. Section 29 of the *Acts Interpretation Act 1901* deems a document sent by post to have been delivered in the ordinary course of post unless the contrary is proved.

## Communication with the AAT

### 32. Contact with members and giving us information

- (1) You must not attempt to directly communicate with a member in relation to the review outside of a directions hearing or hearing.
- (2) Any information which you want us to take into account in the review must be put in writing and given to us.
- (3) You must quote the AAT review number in all communications with us.

Note: The ways in which you can give information to the AAT are listed on the 'Contact us' page on our website ([www.aat.gov.au/contact-us](http://www.aat.gov.au/contact-us)).

Note: Sections 14 and 30 of these Directions contain directions about procedures where information is received from a party.

### 33. Notification from us by electronic means

- (1) We will give the Department any notice or other document by electronic means.
- (2) You may elect in writing to receive any notice or other document from us by electronic means.
- (3) An election under subsection (2) may be revoked by you by written notice to us at any time.
- (4) Your revocation takes effect from the date on which it is received by us.

Note: Subsection 14(5) of these Directions precludes personal information about a party being given to any other party by electronic means without the consent of both parties.

Note: Notices or other documents we give you by electronic means are taken to have been received by you on the day when we send the email or fax.

### 34. Request in relation to our decision

- (1) Where we have given you the reasons for our decision in accordance with section 43 of the Act, we will not give you any further explanation of our decision.
- (2) If you think that we have made an obvious error in the text of a decision or statement of reasons, you must make any request for correction to us in writing.

Note: Examples of obvious errors are given in subsection 43AA(3) of the Act.

## Production of documents by us

### 35. Subpoenas

- (1) Unless it is necessary to do so for the purposes of the Act or the CSRC Act, we will not produce to a court a document in relation to the review, including the recording of a directions hearing or hearing.
- (2) If a subpoena is issued to us for the production of the recording of a directions hearing or hearing for the purposes of an appeal under section 44 or 44AAA of the Act, we will object to a copy of the produced recording being made by (or for) a party to the appeal.

Note: Section 66 of the Act prevents the AAT from being required to communicate to a court a **protected** document or information except in certain circumstances.

**Justice D G Thomas**  
**President**

27 March 2019