

## **Administrative Review Tribunal (Child Support) Practice Direction 2024**

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I, the Hon Justice Emilius Kyrour AO, President of the Administrative Review Tribunal, make the following Practice Direction.

Dated                    14 October 2024

THE HON JUSTICE EMILIOS KYROU AO  
President, Administrative Review Tribunal

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This is a republication of the Practice Direction made on 14 October 2024 which addresses minor formatting issues in the original published version.

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## **Part 1. Preliminary**

- 1.1 This Practice Direction is made under section 36(1) of the *Administrative Review Tribunal Act 2024* (Act).
- 1.2 This Practice Direction is arranged in 6 Parts:
  - (a) Part 1 – Preliminary;
  - (b) Part 2 – Applying for review;
  - (c) Part 3 – General conduct and procedure of child support reviews;
  - (d) Part 4 – Hearings;
  - (e) Part 5 – Evidence; and
  - (f) Part 6 – Protection order or family violence history.
- 1.3 This Practice Direction commences on 14 October 2024 and has effect from that date. This Practice Direction applies to those applications for review of child support decisions described at 1.12 below whether lodged before, on or after this date, and remains in effect until it is superseded or revoked.
- 1.4 The purpose of this Practice Direction is to make directions about the practice and procedures relating to applications for review of decisions and the conduct of proceedings that apply to the review of child support decisions.
- 1.5 This Practice Direction should be read together with the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*.
- 1.6 To the extent that this Practice Direction is inconsistent with the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024* in relation to applications for review of child support decisions, the provisions of this Practice Direction prevail. However, where this Practice Direction is silent in respect of any matter, the provisions of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024* shall apply.
- 1.7 This Practice Direction does not apply to the extent that it is inconsistent with:
  - (a) a provision of the Act or another Act or instrument under which the Tribunal has powers to review decisions;
  - (b) a provision of a regulation made under the Act or another Act; or
  - (c) a provision of a rule made under the Act.

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- 1.8 If the Tribunal makes a direction in relation to a proceeding that is inconsistent with this Practice Direction, the Tribunal’s direction applies to that proceeding and this Practice Direction does not apply, to the extent of the inconsistency.
- 1.9 A failure by the Tribunal to comply with this Practice Direction does not affect the validity of anything done by the Tribunal.
- 1.10 A failure by a party or any other person to comply with this Practice Direction may have consequences for the progress of the application or the person’s participation in the review, including dismissal of the application, in accordance with the provisions of the Act or any other applicable statutory instrument.

### ***Definitions***

- 1.11 In this Practice Direction:

***Act*** means the *Administrative Review Tribunal Act 2024*.

***ART social services decision*** has the [same meaning as under the Act](#).

***child*** means a person under the age of 18 years.

***child support decision*** means a decision made by the Child Support Registrar and for which ART review may be sought under [section 89 of the CSRC Act](#).

***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](#) or the agency within which they are an employee.

***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.

***First Review*** means review by the Tribunal of a child support decision.

***Member*** means a member of the Tribunal.

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

***party*** means a person referred to in section 22 of the Act or in section 95D of the CSRC Act, other than the Child Support Registrar.

***Presiding Member*** has the same meaning as under the Act.

***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.

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**protection order** includes but is not limited to a family violence order, a domestic violence order, a restraining order, a protection order, an intervention order, an apprehended violence order and a workplace protection order.

**redact** means to obscure or remove sensitive information from a document so that the sensitive information is no longer visible.

**representative** means a person who is authorised to represent a party.

**Rules** means the Rules made under the Act.

**statement of reasons** has the same [meaning](#) as under the Act.

**Second Review** has the same [meaning](#) as under the Act.

**Tribunal** means the Administrative Review Tribunal.

**Tribunal Case Event** has the same [meaning](#) as under the Act.

### ***Decisions covered by this Practice Direction***

1.12 This Practice Direction applies to:

- (a) First Reviews of child support decisions; and
- (b) Second Reviews of ART social services decisions relating to a child support decision.

**Note:** This Practice Direction does not apply to decisions of the Child Support Registrar made under section 72T of the CSRC Act. For review of those decisions, refer to the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*.

## **Part 2. Applying for review**

### ***Making an application for First Review and Second Review***

- 2.1 A person making an application for First Review or Second Review relating to a child support decision should follow the requirements in relation to how to apply for a review and the time within which to do so contained in Part 3 of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*.
- 2.2 A person may make an application on behalf of the applicant if the Tribunal is satisfied that the person is:
  - (a) a lawyer acting with the authority of the applicant;
  - (b) the holder of a power of attorney or equivalent legal instrument authorising the commencement of legal proceedings on behalf of the applicant;

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- (c) the lawfully appointed guardian of the applicant; or
  - (d) the executor or administrator of the deceased estate of the applicant.
- 2.3 Parties may choose another person to represent them in the proceeding ([see section 66 of the Act](#)). Parties who engage a representative must notify the Tribunal when applying for review the identity of their representative and their relationship to their representative. A representative for this purpose does not include a ‘support person’ as described at 4.2 below.

### ***When and how time to apply may be extended***

- 2.4 An applicant may apply to the Tribunal for an order to extend the period in which the applicant may apply for review of a child support decision. Paragraphs 3.12 to 3.15 of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024* apply in relation to applications for an extension of time.
- 2.5 The Tribunal will only give notice of an extension of time application to the Child Support Registrar, and will not automatically notify any other party unless the Tribunal gives a direction to do so under [section 19\(5\) of the Act](#).
- 2.6 In most cases, an application for an extension of time will be decided by the Member without a Tribunal Case Event unless the Tribunal decides otherwise.

**Note:** These extension of time provisions do not apply to percentage of care matters. For care percentage objection decisions, there is no time limit to apply for a First Review. There is only a time limit to apply from First Review to Second Review (see sections 18 and 131J of the Act).

## **Part 3. General conduct and procedure of child support reviews**

- 3.1 Parties’ obligations when engaging with the Tribunal and any consequences for not complying with these obligations are set out in Part 2 ‘Obligations of Parties’ of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*.

**Note:** Parties to a child support review have a legal obligation to make full and frank disclosure of their financial position to the Tribunal for the purpose of the review.

### ***The Child Support Registrar as a party***

- 3.2 The Child Support Registrar is taken to have elected not to participate in the First Review of a child support decision and, unless ordered to do so by the Tribunal, will not appear before the Tribunal or otherwise participate in the proceeding.

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**Note:** Ordinarily where parties to a Change of Assessment decision reach an agreement in a case assessment process, those agreements are sent to the Child Support Registrar for their view or assessment as to acceptability even though they are a [non-participating party](#) to the First Review.

- 3.3 The Child Support Registrar is ordinarily expected to participate as a party to any Second Review relating to a child support decision as this would usually provide the best assistance to the Tribunal.
- 3.4 The Child Support Registrar's obligations to the Tribunal continue whether the Child Support Registrar is a party or non-participating party in the proceeding: see paragraph 2.2 of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024* and [section 56 of the Act](#).

## Part 4. Hearings

### *How the hearing will be conducted*

- 4.1 If a hearing is held in a proceeding, ordinarily the parties are expected to attend.
- Note:** Where there is a history of family violence or a protection order is in force, the Tribunal may make appropriate alternative arrangements about attendance.
- 4.2 At least 21 days before a hearing, a party must advise the Tribunal of any person (other than an interpreter or a representative) the party wants to be present at the hearing for support and the reasons why it is necessary for that person to provide support, including any evidence regarding the need for support. Parties should also advise the Tribunal as soon as possible of any proposed changes to these arrangements.
- 4.3 If a protection order *against* a party is in force, that party will be required to participate in the hearing by video, telephone or other electronic means unless the Tribunal decides that the party *protected* by the protection order is to participate by video, telephone or other electronic means.
- 4.4 The Tribunal will not permit a child to be present during a hearing. If a hearing is proceeding by electronic means, parties are required to immediately inform the Tribunal if a child is, or becomes, present.
- 4.5 The Presiding Member will determine how a hearing is to be conducted.
- (a) The Presiding Member may ask questions of the parties or any witnesses during the hearing.
- (b) Neither a party nor their representative may put questions to another party or a witness during the hearing.

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- (c) However, a party or their representative may request that the Presiding Member put a particular question to another party or a witness during the hearing.
- 4.6 The Tribunal will not provide a copy of a recording of the hearing to any party, unless ordered to do so by a court.

### ***Hearings of First Review applications to be held in private***

- 4.7 All hearings of First Reviews will be held in private, as required by [section 95K of the CSRC Act](#).
- 4.8 The Tribunal will make a non-disclosure order under [section 70 of the Act](#) at the earliest opportunity to protect the confidentiality of personal information acquired through the review.

### ***Consenting to the Tribunal deciding a review without a hearing***

- 4.9 The Tribunal may make a decision without the parties appearing before the Tribunal at a hearing if the parties consent (see [section 106\(2\) of the Act](#)).

**Note:** The process for requesting that the Tribunal decide a review without a hearing is set out in paragraphs 5.8 to 5.9 of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*.

- 4.10 If a party consents to the Tribunal deciding the review without a hearing, they must provide the consent in writing.
- 4.11 Where a party has a representative, the representative can notify the Tribunal of the party's consent to the Tribunal deciding the review without a hearing. That notice must contain the party's signature.
- 4.12 The Tribunal will only determine a review without a hearing if the Tribunal is satisfied that it can determine the issues on the papers without the parties being present.

## **Part 5. Evidence**

### ***Documents provided to the Tribunal***

- 5.1 A document which is not given to the Tribunal in accordance with this Practice Direction will only be considered with the permission of the Tribunal.
- 5.2 The Child Support Registrar must give to the Tribunal a copy of the decision to be reviewed within 3 working days after receiving the Tribunal's notice of the application for review.



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- 5.3 The Tribunal may require a party to complete a *Statement of Financial Circumstances – Child Support Reviews* form. Parties must complete and return the form within 14 days following receipt of the form.
- 5.4 A party must lodge any evidence which the party contends supports their claims within the timeframe specified by the Tribunal. If additional time is required, this must be communicated to the Tribunal in writing setting out:
- (a) the additional time required;
  - (b) the reasons why additional time is required and any documentary evidence in support of those reasons; and
  - (c) the nature of the additional evidence to be provided.
- 5.5 Where the Tribunal has not specified a date, any document upon which a party, including the Child Support Registrar, intends to rely at a hearing must be given to the Tribunal at least:
- (a) 14 days before the hearing where no party resides outside Australia; or
  - (b) 28 days before the hearing where any party resides outside Australia.
- 5.6 No party, including the Child Support Registrar, should redact any information contained in any document provided to the Tribunal without the permission of the Tribunal except for the following:
- (a) any tax file number or passport number;
  - (b) any Centrelink client reference number or child support identification number; or
  - (c) the number of the account on a bank statement (including any account to or from which money is transferred in the bank statement) other than the last four digits in that account number.
- 5.7 Where the Child Support Registrar has reason to believe that the health or safety of a party or another person may be at risk if one or more of the following categories of information is given to the Tribunal, the Child Support Registrar may also redact that category (or those categories) of information that gives (or give) rise to the risk:
- (a) the identity of the other person;
  - (b) the residential and postal addresses of the party or the other person;
  - (c) the email addresses of the party or the other person;
  - (d) the telephone numbers of the party or the other person;
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- (e) details (such as registration numbers) capable of identifying any vehicles of the party or the other person;
  - (f) the name, ABN and street address of the employer of the party or the other person; or
  - (g) information regarding a residence, business, place or locality which is capable of being used, on its own or together with other information, to identify the whereabouts of the party or other person.

**Note:** For the avoidance of doubt, where only some of the categories of information give rise to the risk, only those categories of information can be redacted. For example, if only an email address of a party gives rise to the risk, only that email address can be redacted.

- 5.8 Any document lodged with the Tribunal that is not in English must be accompanied by a NAATI certified translation into English.
- 5.9 All documents are to be exchanged by electronic means as set out in paragraphs 2.13(a), (d) and (e) of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*, unless a party informs the Tribunal and the Child Support Registrar in writing that they do not consent to receipt by electronic means.

### ***When disclosure of information is prohibited or restricted***

- 5.10 The Tribunal will ordinarily provide a copy of any document a party gives to the Tribunal to the Child Support Registrar and to any other party to the review or their representative.
- 5.11 The Tribunal will not provide to a party a document which contains the personal information of another party or the personal information of another person without that person's consent.
- 5.12 If there is a protection order in force to protect a party, or if there are concerns about the safety of a party due to a history of family violence, the Tribunal will also redact any other information the Tribunal considers may compromise the safety of a party or any other person.
- 5.13 The process for requesting that the Tribunal prohibit or restrict the disclosure of information is set out in Part 6 of the *Administrative Review Tribunal (Common Procedures) Practice Direction 2024*. In addition to those provisions, a party asking the Tribunal to make an order prohibiting or restricting the disclosure of information to another party must state why such an order would not adversely affect the fairness of the review.
- 5.14 The Tribunal may make a non-disclosure or prohibition order of its own motion. The Tribunal will make non-disclosure orders under [section 70 of the Act](#) at the

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earliest opportunity to protect the confidentiality of personal information acquired through the review proceeding.

**Note:** The Tribunal's power to make non-disclosure orders under section 70 of the Act is very broad and includes the power to prohibit or restrict the publication or other disclosure of information to some or all of the parties to a proceeding.

- 5.15 After the review is finalised, the Tribunal will not give any person a copy of a document that was provided to the Tribunal during the course of the review that contains another person's personal information without that other person's consent.

## **Part 6. Protection order or family violence history**

- 6.1 Parties to a review must advise the Tribunal if there is any history of family violence between them where no protection order is in force.
- 6.2 Within 14 days after making, or being notified by the Tribunal of, an application for review, a party must give to the Tribunal:
- (a) where a party has obtained a protection order against another party to the review—a copy of that order; or
  - (b) where a party has received a protection order that has been obtained against them—a copy of that order.
- 6.3 In complying with 6.1 above, the person protected by the protection order (*protected person*) must also advise the Tribunal if their whereabouts, including their residential address, contact details or place of employment, are not known to the other party.
- 6.4 Where a party obtains a protection order against another party to the review after the protected person has made or has been notified of an application for a review but prior to the hearing, the protected person must give the Tribunal a copy of the order as soon as practicable.