

A customer who thinks a decision about their Centrelink or Family Assistance Office entitlement is wrong may take several steps to have the decision changed. These services are free of charge, except for Court appeals. Centrelink and the Family Assistance Office do not discriminate against customers who exercise their right of appeal.

Contact Centrelink

If unhappy with a Centrelink or Family Assistance Office decision, the customer can discuss it with the person who made the original decision. The customer does not have to do this but many people find it a useful first step. It gives them a chance to correct misunderstandings, present new information or evidence, and to get an incorrect decision changed quickly.

If the customer still thinks a decision is wrong, they have the right to ask for a review by an Authorised Review Officer (ARO). They do not have to talk to the person who made the decision before asking for an ARO review. AROs are senior and experienced people in Centrelink who have had no involvement in the case.

The customer should ask for a review of a decision within 13 weeks of receiving advice of the decision. This is because if the review is decided in their favour, in some cases back payment can only be made if the request is lodged within this 13 week period. This does not apply to debt cases. Reviews of some Family Tax Benefit decisions can be sought within 52 weeks of receiving advice of the decision.

When an ARO review is requested, the person who made the decision may look at it first unless the customer asked for that not to happen. If the person who made the decision does not change it, or if the customer is still not happy with the new decision, the case will be reviewed by an ARO.

The ARO will:

- look at the information used by the person who made the original decision
- when possible, talk to the customer in person or by phone, to discuss the matter
- check whether any new, relevant information is available
- clear up any misunderstandings
- correct any mistakes that were made
- change the decision if appropriate

- inform the customers of the result explaining the reasons for the ARO's decision.

If the customer believes the ARO decision is incorrect, they can then appeal to the Social Security Appeals Tribunal.

Social Security Appeals Tribunal

The Social Security Appeals Tribunal (SSAT) is an independent statutory body that reviews income support, family assistance and student assistance decisions. It aims to provide a mechanism of review that is fair, just, economical, informal and quick.

The SSAT can only look at a decision that has been reviewed by an ARO. The customer should ask for a review of a decision by the SSAT within 13 weeks of receiving advice of the ARO's decision. This is because if the review is decided in their favour, in some cases back payment can only be made if the request is lodged within this 13 week period. This does not apply to debt cases.

An application can be made to the SSAT for a review of a decision by:

- calling **Freecall™1800 011 140** or **TTY Freecall™1800 060 116**
- visiting a SSAT office, Centrelink Customer Service Centre or Family Assistance Office, or
- sending or delivering a written application to a SSAT office, a Centrelink Customer Service Centre or Family Assistance Office. Appeal forms are available from those offices but are not compulsory.

More information can be obtained by calling **Freecall™1800 011 140** or **TTY Freecall™1800 060 116**, from the SSAT website at www.ssat.gov.au or by writing to the SSAT at GPO Box 9943 in capital cities (additional details are in Appendix 2).

Appeals to the SSAT are free of charge. The tribunal has offices in all capital cities and also visits regional centres from time to time.

The SSAT can pay reasonable travel and accommodation costs and will provide an interpreter when needed.

Hearings are conducted in an informal manner. They are not like a court and it is not necessary to take a lawyer. Hearings are in private, but customers may take someone with them who may also talk to the tribunal.

After deciding on the appeal, the SSAT should write to the customer and Centrelink within 14 days, with its decision and reasons.

Decisions made by the SSAT are binding on both the customer and Centrelink and the Family Assistance Office, but either may apply to the Administrative Appeals Tribunal for a further review of the decision.

Administrative Appeals Tribunal

The Administrative Appeals Tribunal (AAT) is a more formal independent statutory body that resolves disputes between people and government agencies. It aims to provide a mechanism of review that is fair, just, economical, informal and quick.

The AAT can review decisions of the SSAT. Appeals must be lodged in writing within 28 days of receiving the SSAT decision, although a late appeal might still be accepted. There is no charge for lodging an appeal in the AAT, and it will not order costs in income support matters.

Appeal forms and more information can be obtained by calling the AAT on **1300 366 700** for the cost of a local call, from the AAT website at **www.aat.gov.au**, or by writing to the AAT at GPO Box 9955 in capital cities. If the customer is hearing impaired the TTY service is **Freecall™ 1800 650 662**.

After an appeal has been lodged at the AAT, Centrelink will lodge with the AAT a statement of reasons for the decision, including all relevant Centrelink documents. A copy will also be sent to the customer.

The AAT will then hold a conference where the customer can talk to a Centrelink representative. The AAT will seek to clarify the issues and, if possible, find a solution that satisfies both the customer and Centrelink.

If the matter is not resolved, the tribunal will give each party the opportunity to present evidence and argue its case in a public hearing, and will then make a decision.

Decisions made by the AAT are binding on both the customer and Centrelink and the Family Assistance Office. Either can appeal a decision of the AAT to the Courts, but only on a question of law.

Court appeals

A customer can appeal an AAT decision to the courts on a question of law. The appeal is to the Federal Court in the first instance, and later to the High Court, which is the final level of appeal.

Court appeals are not free, but the lodgement fee may be waived for a Centrelink customer, and they may also keep costs down by representing themselves. If an appeal is unsuccessful, the customer may have to pay Centrelink's costs. If the appeal is successful, Centrelink may have to pay the customer's costs.

An appeal should be lodged with the Federal Court's Registry within 28 days of receiving the AAT's decision in writing.

Court requirements are complex. For more information contact the Federal Court Registry, go to **www.fedcourt.gov.au** or seek legal assistance.

Reviews of ABSTUDY and Assistance for Isolated Children decisions

A customer can request a review by an Authorised Review Officer of a decision about ABSTUDY or Assistance for Isolated Children. There is no time limit for requesting review of an assessment decision, but requests about debt decisions should be lodged within three months.

If not satisfied with an Authorised Review Officer's decision, a customer can appeal an assessment decision to the Minister for Education, Science and Training, or a debt decision through the usual steps, the next one being with the Social Security Appeals Tribunal.

Assessment appeals to the Minister must be made in writing and sent to:

Minister for Education, Science and Training
Parliament House
Canberra ACT 2600

Legal assistance

Customers can, but do not have to be, legally represented at any stage of the review and appeals system. Many people have been successful at all stages without representation.

Free advice and assistance may be obtained from Welfare Rights Centres and Legal Aid Services.

To contact a Welfare Rights Centre or Legal Aid Service in your state/territory, see the contact information in Appendix 4.

Freedom of Information

The *Freedom of Information Act 1982* (FOI Act) gives any member of the public a general right of access to information held by Australian Government agencies.

Under Freedom of Information a person can make a request to access:

- documents Centrelink holds about them and get copies of those documents, and
- most manuals, rules and guidelines that Centrelink uses to make decisions about the various legislation it administers:
 - *Social Security Act 1991*
 - *Social Security (Administration) Act 1999*
 - *Social Security (International Agreements) Act 1999*
 - *Student Assistance Act 1973*
 - *Family Assistance Act 1999*
 - *Family Assistance (Administration) Act 1999*.

Rules and guidelines

Centrelink manuals and instructions are generally available under the FOI Act without the need for a written request. When copies are requested, there is no charge for the first 25 pages. After that, there is a charge of 10 cents per page.

Copies of Acts such as the *Social Security Act 1991*, the *Family Assistance (Administration) Act 1999*, and the *Privacy Act 1988* can be found on the Department of Families, Community Services and Indigenous Affairs website at www.facsia.gov.au, or the Australian Privacy Commissioner website at www.privacy.gov.au, or can be purchased from Australian Government Info Shops in all capital cities.

Access to personal records

A request for access to personal records should be in writing. A person can use the Centrelink Freedom of Information form *I want to access or change documents*, available at any Centrelink Customer Service Centre. A letter, fax, email or a statement over the counter at any Centrelink Customer Service Centre is also acceptable. A request for access must be answered within 30 days from receiving the request.

Generally, there are no application fees for a person to be able to access their own income support payment documents (unless access has been provided within the previous three months).

More information is available by calling Centrelink or visiting a Centrelink Customer Service Centre.

Commonwealth Ombudsman

The primary focus of the Ombudsman is to ensure transparency and fairness in the way citizens are treated by government agencies and to improve public administration generally. The *Ombudsman Act 1976* (Ombudsman Act) gives the Ombudsman wide powers to question officials and other people, inspect documents and enter Australian Government premises during the course of an investigation.

In most cases, cooperative working arrangements with agencies mean that these powers do not need to be formally exercised. However, some agencies prefer that the Ombudsman uses formal powers because of the protection (for example, against defamation) they provide to officers who are required to make a statement.

Investigating officers try to resolve less serious complaints as quickly as possible by calling the agency to get information and discuss the issues involved. Complaints involving complex issues are handled on a more formal basis. Investigators normally write to the agency and set out the complaint. If necessary, the Ombudsman uses powers under the Ombudsman Act to have people interviewed under oath, or to require an agency to produce files, records or other documents.

The Ombudsman must inform complainants about the outcome of an investigation, or of the reasons why a complaint has not been investigated or an investigation has not been completed.

The Ombudsman is also required to consider whether the actions of the department or authority concerned were unreasonable, illegal, discriminatory or otherwise wrong. When such a finding is made the Ombudsman must report accordingly to the agency concerned and may recommend any remedial action. If adequate action is not taken as a result of those recommendations then the Ombudsman can report to the Prime Minister or the Parliament.

Complaints to the Ombudsman can be made by phone on **1300 362 072** (local call charge), in person, by emailing ombudsman@ombudsman.gov.au, by using the online complaints form available on the Commonwealth Ombudsman's website, or by letter to any Commonwealth Ombudsman's office. Complaints are investigated free of charge and in private.

Customer feedback and complaints

People are free to call the Ombudsman at any time, but they will generally be encouraged to first try and resolve any problems or difficulties which customers may be experiencing with Centrelink. Customers can do this by either filling in a *Tell Us What You Think* comment card (available at any Centrelink Customer Service Centre) or by calling the Centrelink Customer Relations Line on **Freecall™1800 050 004**. Customers who have a hearing

or speech impairment are able to access the Centrelink Customer Relations Line TTY on **Freecall™1800 000 567**. Callers from outside Australia should use the phone numbers shown on the back cover.

Access to review and appeals processes does not require the customer to have first lodged a complaint through a Customer Relations Unit.

Further details on the operation of Centrelink's Customer Relations Units can be found in Chapter 1.

Privacy of information

Centrelink has a strong privacy culture using employees and procedures to safeguard the personal information held about customers. The foundation of Centrelink's privacy culture is its legal obligation to comply with the *Privacy Act 1988* and the confidentiality provisions in the various legislation administered by Centrelink.

Centrelink is authorised by the various legislation it administers to collect and use personal information to provide payments and services to its customers.

Legislation, such as the *Social Security (Administration) Act 1999* and the *Family Assistance (Administration) Act 1999*, place legal obligations on Centrelink to keep personal information secure by:

- only permitting the use of protected information within Centrelink as allowed by the applicable legislation
- allowing the disclosure of personal information to another person or agency only when it is authorised or required by or under law or with the consent of the person to whom the information relates.

The guidelines for the disclosure of personal information by Centrelink are strict and there are severe penalties for the disclosure or use of information except as allowed by the legislation administered by Centrelink.

The *Privacy Act 1988* is concerned with protecting the privacy of personal information, including tax file numbers, collected by all Australian Government agencies.

The *Privacy Act 1988* establishes standards (set out in the Information Privacy Principles) that, in summary, place legal obligations on agencies to:

- collect information in a lawful way and collect only information, which is relevant for the purpose of the collection
- tell people the purpose for which the information is collected, the legal authority to collect the information and any circumstances when personal information is usually given to someone else
- collect only relevant, up-to-date and complete information, and collect it in a fair and non-intrusive way
- keep personal information safe and secure

- provide a public record of the nature of their personal information holding (this is contained in the *Personal Information Digest* issued annually by the Federal Privacy Commissioner)
- give individuals access to their personal information and allow records to be corrected if they are wrong
- check that personal information is accurate, up-to-date and complete before using it
- use personal information only for a relevant purpose, and use it only for the purpose for which it was collected, unless specified exceptions apply, and
- not disclose personal information to another person or agency except when specified exceptions apply.

If a person believes Centrelink has been wrong in the way it has collected or handled their personal information, they can contact the Privacy Officer in a Centrelink Area Support Office, who will look into the matter and take any necessary corrective action (see Appendix 1 for Area Support Office details).


If the person is dissatisfied with the investigation, they can complain to the Federal Privacy Commissioner who is independent of Centrelink. The Federal Privacy Commissioner has the power to investigate complaints about possible breaches of the *Privacy Act 1988* and order agencies to change the way they handle personal information when it is not being done according to law.

While it is possible for the first contact to be with the Federal Privacy Commissioner, in practice the Commissioner's office generally asks Centrelink to conduct its own inquiry first and to let the Privacy Commissioner have the findings. It is therefore quicker for people to contact Centrelink first.

Legal Aid

Legal Aid is funded by the Australian, state and territory governments to provide a broad range of legal services. Each state and territory has at least one Legal Aid office (although they may be known by slightly different names, for example, Legal Services Commission). The legal services provided vary between states and territories but can include the following:

- legal representation in courts and tribunals (including the Social Security Appeals Tribunal, the Administrative Appeals Tribunal and the Federal Court) by qualified legal aid lawyers or private law firms
- legal advice, information and referral, either face-to-face or via a call centre, which provides a service in English and other languages
- a family dispute mediation service
- an extensive range of booklets and other materials, plus a range of seminars and workshops on various legal topics
- a public law library.



Some of the services are subject to guidelines and means tests. However, most of the services are provided free of charge. More information is available from local legal aid offices or on the internet.

