

Purpose

1. This policy sets out the principles and procedures that apply to people accessing documents and other material held on an ACT Civil and Administrative Tribunal (ACAT) case file. This policy applies to requests by parties, their representatives, and members of the public including reporters and media representatives.

Underlying principles and general practice

2. The ACAT's legislative framework, together with the principles of openness and procedural fairness, require that ACAT hearings are usually held in public. Material provided to the ACAT in the course of a public hearing can generally be accessed by members of the public and the media, unless the criteria in paragraphs 19-21 apply. The principles of openness, fairness and transparency extend to documents that the ACAT holds in connection with proceedings (for example, documents that are filed with the ACAT prior to a hearing).
3. The ACAT creates a case file for every proceeding commenced. The case file contains the material for the proceeding. Proceedings are usually identified by the names of the parties and an ACAT proceeding number.
4. In general, parties and their authorised representatives can access and make copies of a range of documents on the ACAT case file relating to their proceedings at any stage. Non-parties can only access certain documents, often after a public hearing.
5. There are situations and types of cases where access to case file material will not be granted: see paragraphs 19-21.
6. A *Freedom of Information Act 2016* request is not usually required to access certain documents held on ACAT case files.

Listing information

7. Dates and times for hearings, mediations and conferences (listing information) are publically available on the ACAT website: www.acat.act.gov.au.
8. A list of ACAT proceedings is posted each day on the notice board in the foyer of the ACAT and on the ACAT website: www.acat.act.gov.au.

9. Sometimes due to the private or sensitive nature of some ACAT cases, the names of parties are not posted on the notice board of the ACAT foyer or displayed on the ACAT website: www.acat.act.gov.au.

Decisions

10. If a decision with written reasons has been published, it is publically available on:
 - a. the ACAT website: www.acat.act.gov.au; and
 - b. the Australian Legal Information Institute (Auslii) website: www.austlii.edu.au.
11. If a published decision is not on the ACAT website and/or the Austlii website, please contact the ACAT at tribunal@act.gov.au.
12. If written reasons for a decision were not published but are on the ACAT case file, the public can request access to the unpublished reasons using the process in paragraphs 23-28 below. If there are written reasons on an ACAT case file, parties are usually provided with a copy.
13. The ACAT can give oral reasons for a decision. Non-parties can seek to obtain a copy of oral reasons by purchasing a transcript of the proceedings (see paragraph 18 for details).

Access by parties and their representatives

14. In general, parties to an application and their representatives can inspect a range of documents on the ACAT case file. In some circumstances, such as those in paragraph 19, parties may not be able to access documents on a case file.
15. Transcripts of proceedings are not routinely ordered by the ACAT. If there is a transcript on an ACAT case file, access may be given to it at the time of inspection.

Access by a non-party including the public and members of the media

16. The ACAT does not usually allow a non-party to inspect documents and other material on an ACAT case file before the proceedings are heard. There may, however, be some limited access to documents such as the initial application and any response.
17. After a final public hearing and subject to any of the factors in paragraphs 19-21, non-parties can usually inspect:
 - a. the initial application and any response;

- b. the evidence admitted in the proceedings (such as affidavits, statements and other documents); and
- c. any order or decision in the proceedings including an interlocutory order, regardless of whether a public hearing was held.

18. The ACAT will not provide a copy of any transcripts on the case file to a non-party. A non-party can purchase the transcript: see https://www.acat.act.gov.au/about_acat/ordering_transcripts.

Confidentiality and suppression orders

19. In certain circumstances, the ACAT may:

- a. direct that the proceedings are held in private; or
- b. give directions prohibiting or restricting the publication of evidence or matters contained in documents filed with the ACAT; or
- c. give directions prohibiting the disclosure of evidence or documents or restricting their disclosure to some or all of the parties to the application.

20. Hearings in the ACAT's mental health jurisdiction are held in private.

21. A party can ask the ACAT for orders of the type described at paragraph 19. To apply, a party should fill in an application for interim or other orders and lodge it with the ACAT.

When access to a case file or document will not be given to parties and non-parties

22. No access to an ACAT case file or document or other material is given where:

- a. there is an ACAT order prohibiting access, for example, an order of a type described at paragraph 19 above; or
- b. there is legislation that applies to the proceedings which prohibits disclosure or requires confidentiality. For example, mental health proceedings are held in private; or
- c. for a party to the ACAT proceedings, material has been produced under subpoena but orders have not been made granting the other party or parties access to that material; or

- d. for a non-party, material has been produced under subpoena but has not been tendered as evidence in proceedings.

How to request access to documents on the ACAT case file

23. To request access to documents on an ACAT case file, send a written request to the ACAT:
 - a. by email addressed to the Registrar and sent to tribunal@act.gov.au; or
 - b. by letter addressed to:
The Registrar
ACT Civil and Administrative Tribunal
GPO Box 370
Canberra ACT 2601
24. The request should provide the following information:
 - a. the party names and/or the ACAT case file number;
 - b. what you want to inspect (for example, particular documents or the ACAT case file for proceedings);
 - c. your name, organisation and interest in the matter, and whether you are a party;
 - d. the reason/s for seeking access to the documents on the ACAT case file such as how the material will be used, and why it is needed;
 - e. any request to make copies of documents on the file. A fee applies for copies of documents, as set out on the ACAT website at www.acat.act.gov.au.
 - f. any timeframe in which the documents are sought; and
 - g. a list of dates and times you are available to attend the ACAT to view the case file.
25. This information must be provided before the ACAT actions an access request. The Registrar may seek the views of the parties before deciding whether to allow access. The ACAT may also hold a hearing before deciding whether to give access.
26. If the request is approved, you will be contacted by the ACAT registry staff to make an appointment to inspect the documents. Appointments are usually for up to 30 minutes. Please tell the ACAT registry staff if more 30 minutes is needed. There is a fee to inspect documents: see www.acat.act.gov.au/fees.
27. You can ask for photocopies of any inspected document, which will be provided unless there is an order which does not allow copying. There is a fee for each page that is copied: see. www.acat.act.gov.au.

28. No document or other material is to be removed from the ACAT under any circumstance.

Litigation Searches

29. A litigation search shows if a party or entity has other proceedings before the ACAT. Parties, their representatives and non-parties can request a litigation search. There is a fee for a litigation search: see www.act.gov.au.

30. To request a litigation search, write to the ACAT and provide:

- a. the full name of the person or entity to be searched including given or family names, ABN etc;
- b. the ACAT file number (if available); and
- c. the reasons for seeking the information.

31. Send your litigation search to the ACAT by:

- a. by email addressed to the Registrar and sent to tribunal@act.gov.au; or
- b. by letter addressed to:

The Registrar
ACT Civil and Administrative Tribunal
GPO Box 370
Canberra ACT 2601

32. The ACAT will usually respond to your request within three business days.

33. If the request is approved, the ACAT will give provide a cost estimate for pre-payment. Once payment is received, the search will be done and you will be given the name of any ACAT case files, the type of proceedings, the ACAT proceedings number and a payment receipt.