

# Out-of-Home Care

## Legal assistance for carers

This fact sheet outlines how to apply to the NSW Civil and Administrative Tribunal (NCAT) if you disagree with a decision to give out high level information about your placement.

The out-of-home care agency that manages you as a carer holds information about you, your family and members of your household, and the child or young person in your care.

Some of the information agencies have about you and the child or young person in your care is classified as 'high level'.

High level information includes:

- your surname and the surnames of people in your household
- your address and home telephone number
- the name of your employer or information about your workplace
- the name of the school the child or young person in your care goes to.

In some circumstances, the agency can decide to give some or all of this high level identification to birth parents, or to other people who are significant to the child or young person in your care.

**The agency will tell you if they have decided to give out this information.** If you disagree with that decision, you can appeal to have it reconsidered. There are a number of steps you must follow to appeal a decision.

The information in the attached table describes the steps involved in an appeal. It also shows the amount of time you have to complete each step.

The first step in an appeal is to ask the agency to do an internal review. No information will be given out until the internal review has been completed.

**If you are not happy with a decision after an internal review has been completed, you can ask the agency to apply to NCAT on your behalf. You might need to seek legal representation.**

All applications to NCAT are assessed by an independent panel and the agency will not be allowed to release your information until the proceedings are finished.

If you apply, NCAT will ask the agency to prove that giving out this information will not put anyone's safety at risk, including your safety, the safety of your family/household, or the child or young person in your care.

**You can apply to the Department of Family and Community Services (FACS) for financial assistance to help towards your legal costs. Information about how you can do this is also in the attached table.**

FACS has no duty or commitment to give you any more financial assistance for your application than what is outlined in the table for your legal expenses.

## Review and appeal process

Step	Time Frame	Who	Action	Details
1	Within 21 days of the agency writing to tell you that they have decided to give out high level information	Carer	Ask for an internal review	If you disagree with the decision to give out high level information and would like the agency to reconsider, ask the agency to review the decision.
2	Within 21 days of the date on the letter telling you about the results of the internal review	Carer	Think about the decision made as a result of the internal review	You can write to the agency asking them to apply to NCAT on your behalf if: i. the decision to release high level information is upheld; and ii. you continue to disagree with the reasons provided by the agency.
3	As soon as possible	Carer	Choose a legal representative	You are responsible for choosing and instructing your legal representative. Your legal representative is independent of the agency.
4	As soon as possible after you've chosen your legal representative	Carer	Send a letter to the General Counsel, FACS Legal Community Services	Write to FACS and give them the name and contact details of your legal representative.
5	Within seven days of getting the letter telling you that the agency has applied to the NCAT	Carer	Send papers to the General Counsel, FACS Legal	Send a copy of the following documents to FACS Legal: <ul style="list-style-type: none"> <li>• your original letter asking for the application to be made</li> <li>• the outcome of the internal review including the reasons why the information is to be released.</li> </ul>
6	Shortly after being told you have chosen a legal representative	FACS	FACS will send a letter to your legal representative	FACS Legal will write a letter to your legal representative to give them the following advice about the financial assistance available and the conditions for payment: <ol style="list-style-type: none"> <li>an invoice must be received by FACS within 12 months of being issued by the legal representative.</li> <li>the invoice must specify that it concerns an NCAT application for a review of the decision to give out high level placement information. The invoice cannot include any work done before the application was filed with the NCAT.</li> <li>the invoice must give details of the amount of time the legal representative spent on your case.</li> <li>reimbursement will not be paid for disbursements</li> <li>all invoices must be sent to you within 12 months of the NACT finishing its review of the decision.</li> </ol>
7	Shortly after getting invoices from your legal representative	Carer	Send invoices to the General Counsel, FACS Legal Services Branch	Shortly after getting each invoice send it to the General Counsel FACS Legal.
8	As soon as possible	FACS	FACS Legal will send payments directly to your legal representative	Payment will be made at \$330.00 per hour for each hour the invoice says the legal representative worked on your application to the NCAT. \$10,000.00 is the most FACS will pay to your legal representative when all the invoices for your case are added up. No payments will be made directly to you.

### Address of the General Counsel

The address of FACS Legal is:  
General Counsel, FACS Legal Department  
of Family and Community Services  
Locked Bag 4028, ASHFIELD 2131

For more details on the NCAT phone:  
Phone 1300 006 228 and select Option 3  
or visit: [www.ncat.nsw.gov.au/](http://www.ncat.nsw.gov.au/)