

ARC UPDATE

PREPARING STATEMENTS OF REASONS

The Council has released a set of *Practical Guidelines* for primary decision makers to help them prepare sound reasons for their decisions. The requirement that decision makers give reasons is a fundamental element of our Commonwealth administrative review system and it is intended that these Guidelines will help improve the quality of statements of reasons.

The Guidelines are presented as seven questions that decision makers may ask when preparing reasons for a decision. Set out under those questions are guiding principles to assist the decision maker in preparing a statement. As a further reference, the Council has produced a *Commentary on the Practical Guidelines* to provide a fuller explanation of the law on reasons.

The *Practical Guidelines for Preparing Statements of Reasons* is reproduced in full below. These Guidelines, as well as the *Commentary on the Practical Guidelines* are also available on the Council's website at law.gov.au/arc or from the Council's Secretariat on (02) 6250 5800.

PRACTICAL GUIDELINES FOR PREPARING STATEMENTS OF REASONS

1. Do I have an obligation to provide a statement of reasons?

There is no general common law obligation to provide reasons for your decisions.

However, you have a *statutory obligation* to provide reasons where an Act states that a person adversely affected by your administrative decision can request a statement of reasons for that decision.

This occurs where:

- there is a right of merits review by the Administrative Appeals Tribunal (AAT); or
- there is a right of judicial review by the Federal Court; or
- the legislation under which you made your decision requires you to give reasons when notifying the person affected by the decision.

Even if a computer program is used to assist you in the making of a decision, the obligation to provide a statement of reasons remains and must be satisfied by you.