

Introduction

In the course of your proceeding, the Tribunal may make an order requiring you to provide information about your case by preparing a *Statement of Issues, Facts and Contentions*. This is often referred to as a 'SIFC'.

The SIFC is essentially a summary of your case. It tells the Tribunal and the other party / parties to the proceeding what your case is.

What does SIFC stand for?

'S' '*Statement*' means a written document. It should be typed, and each paragraph should be numbered.

There are some sample SIFCs attached to this Information Sheet.

'I' '*Issues*' refer to the issues you say the Tribunal needs to decide. Sometimes it is useful to express these as questions. For example: 'Can I make an alteration to my lot?' or 'Whether the cracks in the applicant's driveway are due to the concrete not being poured in a proper and proficient manner'.

Each of the issues you say the Tribunal needs to decide must be listed separately and must be numbered. (See the attached sample SIFCs.)

'F' '*Facts*' refer to things that have happened which you say are relevant to the decision the Tribunal should make. At a hearing, the facts will need to be proved, such as by a witness' evidence as to what they saw or heard, or by giving the Tribunal documents which show that something happened (for example, a receipt which was given by a person may acknowledge the payment of money or delivery of goods).

In your SIFC you do not need to set out your evidence. (The Tribunal may make separate orders for you to file your evidence before the final hearing in the proceeding.)

The facts you need to set out in your SIFC are a summary of what you will prove by evidence.

The facts you set out in the SIFC should be brief. (See the attached sample SIFCs.)

Do not include your opinions about the facts. However, if you will be relying on the evidence of an expert witness you should indicate what facts you say the Tribunal should find, based on the evidence of that expert. For example: 'The plaster mixture did not comply with the requirements of the Australian Standard No. XYZ.'

In setting out the facts, you may find it helpful to indicate which witness, or expert witness, will give evidence about that fact or whether the fact will be proved by the contents of a document.

Each of the facts on which you rely must be listed separately and must be numbered.

'C' '*Contentions*' refer to the conclusions you want the Tribunal to reach and why the Tribunal should reach those conclusions.

Each of your contentions must be listed separately and must be numbered.

What is the purpose of a SIFC?

The SIFC assists the Tribunal and the other party / parties to a proceeding to quickly understand the case put by each party to the proceeding.

In a proceeding in the Tribunal's *original jurisdiction* (for example strata, building and commercial tenancy retail shops disputes), the Applicant will be required to file their SIFC first. The Applicant's SIFC must:

- clearly set out the issues, facts and contentions that the Applicant relies on; and
- should also set out the orders the Applicant wants the Tribunal to make, and why those orders should be made.

The respondent's SIFC should:

- indicate whether the respondent agrees that the Issues the Tribunal must decide are those set out by the Applicant, or whether the Tribunal must decide additional or different issues;
- indicate whether the respondent agrees with the facts set out by the Applicant;
- set out any additional facts on which the respondent relies; and
- set out the Respondent's contentions - that is, the conclusion the Respondent says the Tribunal should reach, and why it should reach those conclusions.

In a proceeding in the Tribunal's *review jurisdiction* (for example planning, licensing disputes):

- the Respondent will usually be required to file their SIFC first as the Respondent made the decision which is under review. Its SIFC will explain the basis for the decision, and why that decision is the correct and preferable decision, which should be confirmed by the Tribunal on the review; and
- the Applicant will be required to file a responsive SIFC which will indicate whether the Applicants agrees with the Issues and Facts set out by the Respondent, and will indicate why Applicant contends that the decision made by the Respondent should not be confirmed, and why the Tribunal should conclude that a different decision would be the correct and preferable decision.

Format of a SIFC

Some sample SIFCs are attached to this Information Sheet, and provide examples of the format for a SIFC.

When is a SIFC required?

A SIFC is not required in every case in the Tribunal. Some cases are very simple and do not require SIFCs to be prepared to enable the Tribunal and each of the parties to the proceeding to understand the case.

If the Tribunal thinks that the parties to a proceeding should prepare a SIFC, it will raise this at a directions hearing, and make an order requiring each party to prepare their SIFC by a specified date.

You must file your SIFC by the date specified by the Tribunal in its order.

The Tribunal will require you to file your SIFC in the Tribunal, and give a copy of your SIFC to each other party to the proceeding.

What to do if you have questions?

If the Tribunal orders that you prepare a SIFC, and you do not understand what is required, you should ask the Member presiding at the directions hearing to clarify what you need to do.

For general enquiries you can also call the Tribunal, but please remember the Tribunal cannot give legal advice or assist you to complete the SIFC.

Further information

Some sample SIFCs are attached to this Information Sheet. They are just examples.

If you are ordered to prepare a SIFC, it will need to reflect the case you want to put before the Tribunal.

Further information about SIFCs which may be required in planning matters is available on the Tribunal's website ([Info Sheet 5.pdf \(justice.wa.gov.au\)](#)).

Example of a Statement of Issues, Facts and Contentions (Strata Titles dispute)

Issues

1. Whether a pergola constructed by the respondents in their courtyard is a structural alteration to a lot within the meaning of s 87 of the Strata Titles Act 1985 (WA) ('STA').
2. Whether approval to construct the pergola was properly refused by the applicant.
3. Whether an order should be made requiring the respondents to remove the pergola.

Facts

4. The applicant is the strata company for the strata scheme created by the registration on 1 July 2015 of Strata Plan 1234 ('Scheme') (see search of the strata plan – filed with the application).
5. The Scheme includes five single storey units, each with an enclosed courtyard. It also has a shared driveway and gardens.
6. The units in the Scheme are constructed of red face brick, with federation green trim. (see photo enclosed)
7. The respondents are the owners of Lot 5 in the Scheme (see search of the title for Lot 5 – filed with the application).
8. In February 2020, the respondents sought approval from applicant to build a pergola in their courtyard. (see letter enclosed)
9. At a general meeting on 23 February 2020, the applicant refused to grant approval because other lot owners thought it would change the look and feel of the complex (see minutes of the meeting – page 10 of the applicant's documents).
10. Despite not having approval to do so, in April 2020 the respondents built a pergola in the courtyard of Lot 5.
11. The pergola is constructed of black power coated metal and can be seen from outside Lot 5 (see photographs enclosed).
12. No other units in the complex have pergolas or patios in the courtyard.
13. In July 2020, the applicant gave notice to the respondents that were to remove the pergola by 30 August 2020 (see correspondence dated 12 July 2020 enclosed)
14. The respondents have not removed the pergola.

Contentions

15. The applicant and respondents are both 'scheme participants' and the dispute between them is a 'scheme dispute', as defined in s197 of the STA.
16. The respondents' courtyard forms part of Lot 5 (see floor plan on the strata plan).
17. The pergola constructed by the respondents is a structural alteration of a lot within the meaning of s 87 of the STA.
18. Without the applicant's prior written approval, the respondents were prohibited by s 87(2) of the SAT from causing or permitting a structural alteration to Lot 5.
19. The applicant had grounds under s 87(5)(b) to refuse to grant approval to the construction of the pergola because it is a structure that would be visible from outside Lot 5 and is not in keeping with the rest of the development.

Order sought: The respondents should be ordered under s 199 of the STA to remove the pergola.

Example of a Statement of Issues, Facts and Contentions (Building dispute)

Issues

1. Whether the crack that has appeared in the driveway is a regulated building service not being carried out in a proper and proficient manner or being faulty or unsatisfactory within the meaning of section 5(1) of the **Building Services (Complaint Resolution and Administration) Act 2011**?
2. Whether the respondent who appointed a subcontractor to do the work is responsible for remedial work?
3. Whether an order should be made pursuant to s36(1) of the Act for the respondent to undertake remedial work to the driveway.

Facts

4. The applicant and respondent entered into a contract for the driveway to be built on the following date (a copy of the contract is included as Annexure 1).
5. There were no variations to the contract.
6. The respondent undertook the work on the following days (photos of the work being done attached as Annexure 2).
7. The respondent did not lay reinforcing as is required by the Building Code (photo of concrete poured without reinforcing evidence Annexure 3)
8. The Building Code requires reinforcing of the following nature for this type of driveway (Building Code enclosed Annexure 4)
9. The building work was completed on or around on the following date.
10. The crack appeared on the following date (witness statement and photo enclosed as Annexure 5)
11. The crack appeared within the 6 year statutory warranty period.
12. The width of the crack is between .5mm to 5mm (measurement and photos enclosed as Annexure 6)
13. The expert retained by the applicant has confirmed that the crack exceeds the standards set by the Building Code (expert report attached as Annexure 7)
14. The applicant has sent several emails to the respondent to remedy the crack but the builder denies liability (Annexure 8)

Contentions

15. This work done by the respondent is a regulated building service.
16. The use of a subcontractor by the respondent does not absolve the respondent of liability for the faulty work.
17. The respondent must make good the concrete in a proper and proficient manner.
18. The entire driveway must be removed and redone since (a) the reinforcing was not adequate and (b) new concrete will have a different shade to the previous concrete.

Order sought: The respondent should be ordered to make good the entire driveway to a standard that complies with the Building Code and to reimburse the applicant for the cost of the expert report.