

THE APPEALS PROCESS

Because Housing ACT is a government body, decisions they make are subject to review. You get this review by 'appealing' the decision.

You can appeal...

- ... A decision not to give you a rent rebate
- ... A decision that you are no longer eligible for assistance
- ... A decision to assign you to a particular Priority Category
- ... A decision to refuse your application for housing assistance
- ... A decision to refuse to transfer you to different accommodation
- ... A decision to refuse to put your name back on the Housing Register

THE EARLY STAGES OF AN APPEAL

If you are unhappy with a decision that Housing ACT has made, you can appeal that decision by lodging a written Request for Review with Housing ACT **within 28 days** of receiving notice of the decision.

WHAT IS A REQUEST FOR REVIEW?

A request for review is a notice to Housing ACT that you are not satisfied with their decision. It must be in writing and must set out the grounds on which you are objecting in a full and detailed manner.

A request for review should be addressed to the Housing ACT officer who made the decision you are objecting to. If you do not know who this is, you should lodge it with your Housing Manager.

WHAT HAPPENS AFTER I LODGE A REQUEST FOR REVIEW?

After you lodge a request for review, the Housing ACT officer who made the initial decision will consider your request and review the decision. If the officer upholds your request for review they will change the decision. If the officer does not uphold your request, the decision will remain unchanged and your request will go to the Commissioner for Housing. The Commissioner may refer it to the Housing Review Committee.

TIME LIMITS

If you send a request for review of a decision within 28 days of having notice of the decision served on you, the request for review is considered lodged and Housing ACT must review the decision to which you are objecting.

If the 28-day period has expired, you can still send a request for review providing it is accompanied by a written application to treat the request as having been 'duly lodged'. Such an application must state the reasons for your failure to lodge the request for review within the 28 days. If your application is approved, your request for review will be treated as being duly lodged and Housing ACT must review the decision to which you are objecting.

If Housing ACT refuses to accept your late application, the only avenue available to you is to appeal that decision to the Administrative Appeals Tribunal (AAT). An appeal to the AAT must be made within 28 days of receiving Housing ACT's decision not to accept your late application.

THE HOUSING REVIEW COMMITTEE

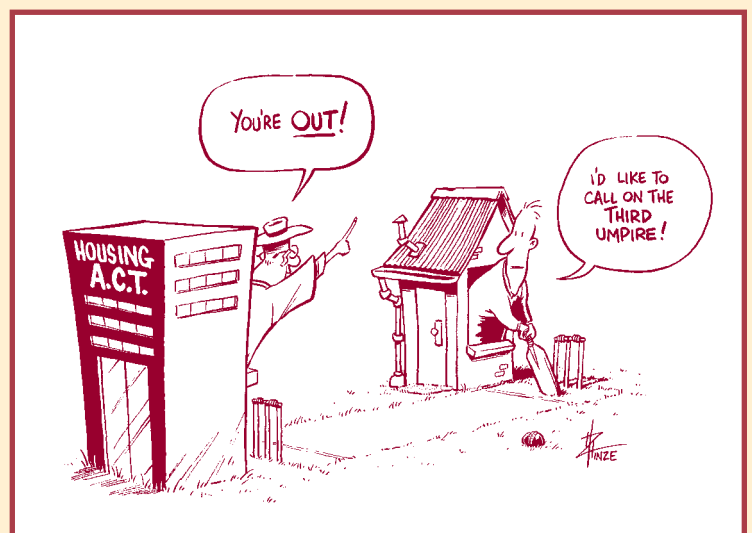
The Housing Review Committee (HRC) is a panel of three people, none of whom works for Housing ACT. The Committee meets to hear requests for review of decisions made by Housing ACT. If your request for review has been referred to the HRC you will be invited to attend a hearing.

At the HRC hearing you will be invited to talk about the grounds of your request. You can also supply any additional evidence in support of your request for review that you might have, such as documents and witnesses.

Following the hearing, the HRC will make a recommendation in relation to your request for review. Housing ACT can decide to accept the recommendation, accept the recommendation with changes, or reject the recommendation. This decision is the formal legal decision on your request for review, and Housing ACT must give you written notice of it.

Welfare Rights & Legal Centre

**Advice line
6247 2177**



THE ADMINISTRATIVE APPEALS TRIBUNAL

If you are still not happy with a decision of Housing ACT following the HRC process, you can apply to the Administrative Appeals Tribunal ('AAT') for a review of that decision. The AAT is an independent review body that is set up to review decisions made by government departments or agencies such as Housing ACT. It is not connected with Housing ACT in any way.

HOW TO APPLY TO THE AAT

To have a Housing ACT decision reviewed you must lodge an 'Application for Review of Decision' form with the AAT registry. On this form you will need to provide your name and contact details (or the contact details of your representative), a description of the decision you want reviewed (or a copy of the written decision), the date you received the decision, and your reasons for making the application.

TIME LIMITS

You have 28 days following the date on which you received notice of the Housing ACT decision to make an application for review. If your application is late (lawyers call this 'out of time'), the AAT may grant you an extension of time in which to lodge the application if you provide reasons why the application is out of time.

WHAT HAPPENS AFTER I LODGE AN APPLICATION FOR REVIEW?

After you lodge your application for review with the AAT, notice of your application will be served on Housing ACT. At this point, Housing ACT is required to provide the AAT

with all of the documents in relation to your application (including a statement of reasons for the decision) within 28 days. These documents are known as the 'T docs', and a copy of them will be sent to you (or your representative) as well. You should read through these documents carefully.

PRELIMINARY CONFERENCE

At or around the same time you receive the T docs you will receive notice to attend a 'preliminary conference'. A preliminary conference is a relatively informal opportunity for the parties to come together to discuss the appeal in the presence of a Tribunal Member. The Member's role at this conference is to help the parties identify the issues in dispute and explore options for resolving the dispute by agreement without the need for a hearing. The Tribunal Member has no power to make a decision at this conference.

The Member who is present at the conference will not be the Member who makes the decision at the hearing, and discussions and agreements made at the conference are confidential.

DIRECTIONS HEARING

Sometimes matters are resolved at the preliminary conference. If they are not, the matter must proceed to a hearing. Sometimes the Tribunal Member at the preliminary conference will set the dates for the final hearing. Otherwise it is important that you contact the AAT Registry to request a 'directions hearing'. The AAT will send you a notice indicating the time and place of the directions hearing. At the directions hearing a Member will ask you how much time you

need to submit a document setting out the facts and any arguments you wish to make (this document is formally known as a 'Statement of Facts and Contentions'). You will also be required to submit witness statements and a 'Witness List' — a list of the witnesses that you intend to call.

You should ensure that you have evidence for any facts you are alleging that may be disputed by Housing ACT. For example, to show that you have a health problem that means you cannot use stairs, you could get a letter from your doctor that indicates this to be the case.

Make sure you give yourself enough time to contact all your witnesses before you submit your Statement of Facts and Contentions and your Witness List. You can ask for between one and three weeks to prepare. The AAT will ask the representative for Housing ACT to state the time they require to submit the documents, and the Member will then set a date for the final hearing of the matter.

PREPARING YOUR STATEMENT OF FACTS AND CONTENTIONS

Because the Tribunal will review Housing ACT's decision in light of the facts you can supply, it is important that you include all the relevant facts in your Statement of Facts and Contentions. Remember that you should provide evidence for any facts that may be in dispute.

You should also include your 'contentions' in this document. Contentions are the legal arguments that you wish to put to the Tribunal to show why the decision should be made in your favour. You may need to

draw on some of the following sources to assist you in drafting them (this list is not exhaustive):

- ▶ Housing ACT policy documents;
- ▶ Housing ACT determinations;
- ▶ The Public Rental Housing Assistance Program;
- ▶ Previous AAT decisions;
- ▶ ACT Supreme Court decisions;
- ▶ The Housing Assistance Act 1996;

Make sure you submit your Statement of Facts and Contentions, all witness statements, and your Witness List to the AAT by the date set. You must also send a copy of these documents to Housing ACT. You should receive a copy of Housing ACT's Statement of Facts and Contentions on the date by which they were required to submit their documents.

Finally, ensure that all your witnesses can be present at the hearing, or failing that, will be available by telephone on the day of the hearing.

THE HEARING

Hearings are generally informal, and provide both parties with the opportunity to put their side of the case to the Tribunal, by calling witnesses and making arguments to the Tribunal on questions of law and/or policy. If you are not represented, the Tribunal Member will try to help you feel at ease and guide you through the Tribunal process. However it is important for you to understand that the Tribunal Member cannot take on the role of arguing the case for you.

Tribunal proceedings are generally open to the public and are tape-recorded. It can be helpful to go to the Tribunal and sit in on a hearing, prior to your own hearing to see how the hearing is conducted. This is strongly advisable if you are not going to be represented at the hearing by someone else. Details of Tribunal hearings are printed in 'The Canberra Times' Law List daily, but you should confirm scheduled hearings with the Tribunal Registry as matters may be settled or discontinued.

In some circumstances, the Tribunal may agree to hold the hearing in private and to prohibit or restrict publication of evidence and documents lodged with the Tribunal if it can be satisfied there is a sufficient reason for this to happen. If you believe your case justifies a confidentiality order, it is a good idea to raise this with the Tribunal Member at the preliminary conference or directions hearing.

The Tribunal sometimes gives its decision and reasons orally at the end of the hearing, although usually it will give its decision in writing at some later date. If a decision is not made on the day, the Tribunal registry will notify you when it becomes available.



Disclaimer

This fact sheet contains general information available at the time of printing. It does not constitute legal advice. If you have a specific legal problem, please contact the Welfare Rights and Legal Centre's advice line on 6247 2177. The Welfare Rights and Legal Centre is entirely independent of Housing ACT. All assistance is free.

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