

APPEALS MANAGEMENT

Purpose

The purpose of this policy is to outline the way in which YourPlace Housing manages appeals.

YourPlace Housing recognises that there will be occasions where people disagree with a decision of YourPlace Housing and aims to ensure that YourPlace Housing provides a fair and consistent process towards managing appeals.

Scope

This policy applies to all tenants, applicants for housing and any other person who has a direct involvement in the dispute.

Legislation and Other Policies

YourPlace Housing will comply with relevant State and Commonwealth legislation including the:

- > Residential Tenancies Act 1995 (South Australia)
- > National Disability Insurance Scheme Act 2013 (Commonwealth)

Definitions

- > Advocate: a person who may have been invited by the Appellant to speak on their behalf or support them during the process
- > Appellant: an appellant is a person who is requesting that a decision is reviewed
- > Appeal – a formal application to have a decision made by YourPlace Housing reviewed
- > Natural justice – duty to act fairly
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- > Respondent: the person or organisation against whom an application has been lodged
- > SACAT – South Australian Civil and Administrative Tribunal

Appeals

Tenants, their families/significant others, carers, guardians, advocates and support providers (the appellants) have the right to appeal a decision made by YourPlace Housing.

Appellants will not be disadvantaged by lodging an appeal.

YourPlace Housing will act in a transparent and objective manner in receiving, investigating and responding to an appeal.

The appellant can appeal:

- > A decision relating to a dispute with another YourPlace Housing tenant
- > A decision relating to a dispute between the appellant and YourPlace Housing
- > A decision relating to the application for housing and eligibility
- > A decision made by YourPlace Housing that the appellant believes is unreasonable, oppressive or unjust

The YourPlace Housing Appeal Committee will consider amongst other things, decisions relating to:

- > The process used to make a decision
- > Whether the decision is consistent with YourPlace Housing policy
- > Tenancy matters
- > Disputes between neighbours

The YourPlace Housing Appeal Committee will not consider:

- > Matters concerning an eviction made as a part of a Court or South Australian Civil and Administrative Tribunal (SACAT)
- > Government policy
- > Decisions relating to tenant rent arrears, levies and water charges

Only the person who is directly impacted by the original decision may initiate appeal proceedings.

An application of appeal should only be lodged after there has been a genuine attempt to resolve the issue through mediation or conciliation.

An application of appeal must be received by YourPlace Housing within 30 days of the incident, decision or action.

An appeal can be withdrawn at any time.

An application for appeal must be made on the prescribed application form as per Appendix 1.

The Appeal Committee

The Appeal Committee will consist of a minimum of three people and will be chosen each time an appeal arises. The selected Appeal Committee members must be available to conduct the appeal in its entirety to ensure that the principles of natural justice are observed.

The Appeal Committee will consist of the following members: a YourPlace Housing Board member, a senior staff member of another community housing organisation and a Board member of another community housing association.

An Appeal Committee Coordinator will be appointed from the Appeal Committee members.

The Appeals Committee Coordinator will ensure that none of the members of the committee have a conflict of interest.

YourPlace Housing delegates its authority to hear appeals and make decisions about appeals to the Appeals Committee in the event of an appeal being lodged.

Preparing for an Appeal

YourPlace Housing will keep a register of appeals to their Appeal Committee and of any matters which are appealed to SACAT.

The Chief Executive Officer will, within 5 days of receipt of the appeal application:

- > Enter details about the appeal in the confidential Appeal Register
- > Inform the appellant in writing that the appeal has been received
- > Inform the respondent in writing that an appeal has been lodged against them and the details of the claim being made

The Chief Executive Officer will, within 14 days of receipt of the appeal application:

- > Establish an Appeals Committee
- > Confirm which member of the Appeal Committee will assume the role of Appeal Committee Coordinator
- > Ensure that an appeal hearing is held within 56 days of receipt on an appeal

The Appeal Panel Coordinator will distribute documentation relevant to the appeal to the appellant and to the Appeal Committee. All parties must have the same information.

The Appeal Committee will review all information provided to determine if further information is required prior to the hearing, and if necessary, has the right to access any relevant and appropriate information necessary for the appeal hearing. Depending upon the complexity of the appeal the review of information can occur at a face to face meeting or emailed to the Appeal Committee for review.

The Appeal Committee will set a time and place for hearing the appeal, which must take place within 56 days of the lodgment of the appeal. The hearing must be held at a time that is convenient to all parties and adequate notice must be given (at least 14 days).

The Appeal Procedure

The appeal hearing will include:

- > The three Appeal Committee members (including the Appeal Committee Coordinator)
- > The appellant
- > The respondent
- > The appellant's support person(s)

The Appeal Committee will take all reasonable steps to ensure that the appeal process is completed as quickly as possible.

The Appeal Committee will hear and consider all relevant written and verbal information from all parties relating to the appeal. The Appeal Committee may request any relevant and appropriate information, documents, witnesses or assistance that members need to come to a decision. Each party is able to present any relevant information that may assist him/her and has the right to have a friend and/or advocate assist with the appeal hearing.

Any witnesses interviewed by the Appeal Committee will be present only for the time he/she is giving information to the panel. The appellant may withdraw his/her appeal at any time. In this case, the appeal stops and the original decision can then be carried out.

Confidentiality will be maintained throughout the appeal process including if the appellant withdraws an appeal. All evidence will be considered confidential unless otherwise agreed by all parties.

If YourPlace Housing does not respond to a request for an appeal in accordance with this policy, the appellant has the right to appeal directly to SACAT.

Where a mediation/conciliation process is initiated during the appeal process, the timeframe set out in this policy will be frozen – i.e. the mediation/conciliation will take place, after which the appeal process will re-commence from where it left off prior to the mediation/conciliation.

All Appeal Committee proceedings will be accurately recorded and the record will be kept in a safe place, along with all the information relevant to the appeal.

When the Appeal Committee is satisfied that it has heard and considered all the relevant information, it will make a decision about the appeal. If a decision cannot be reached unanimously, then the decision shall be that of the majority of members of the Appeal Committee.

If the Appeal Committee is unable to make a decision at the initial hearing it can adjourn and reconvene at a later date but no later than 14 days after the initial hearing.

Within 5 days of the hearing, the Appeal Committee Coordinator will provide a written report of the appeal to the Chief Executive Officer and the appellant.

The appeal report will include:

- > Date, time and location
- > Attendees
- > Original decision to be reviewed
- > Mediation attempts/alternative dispute resolution attempts prior to the appeal
- > Reason/s for original decision, i.e. what factors were considered in making the original decision i.e. evidence, correspondence, policies and procedures considered
- > Findings regarding the review of the original decision making process (e.g. did all parties have an opportunity to respond to all issues/complaints, were all parties given reasonable timeframes to have input into the original decision making process)
- > Any perceived and/or disclosed conflict of interest with the original decision
- > A summary of any other information presented at the appeal hearing
- > The steps the hearing of the appeal took, including how and when the internal Appeal Committee met and what information was heard

- > The Appeal Committee's decision
- > All of the reasons for the decision (including policy and procedure)

The appellant must be advised in writing that they have the right to appeal to SACAT should he/she be unhappy with the appeal outcome or process.

Implementing the Appeal Decision

YourPlace Housing Management will implement the decision, or monitor whether a decision has been implemented.

If a matter is further appealed to SACAT, no decision made by an internal Appeal Committee will be acted upon until finalisation of the SACAT appeal.

Appeal to the South Australian Civil and Administrative Tribunal

The appellant is able to appeal to SACAT within 30 days of receiving the internal Appeal Committee's decision.

The appellant will inform the Board/Management if he/she is appealing against the matter to SACAT.