

Complaints and Appeals

1 Purpose and Applicability

This policy sets out the right of applicants and tenants to provide feedback about a service provided by the Women's Housing Company, or to appeal a decision made by the Women's Housing Company (WHC). Feedback to WHC about its services, and how they are delivered, can be in the form of compliments, complaints or appeals.

The policy sets out the requirements of tenants and the obligations of WHC. WHC will apply procedural fairness in relation to its implementation of this policy and will meet all legislative requirements.

This policy applies to all transitional, social and affordable housing programs managed by WHC, but not to crisis accommodation.

This document satisfies the requirements of:

- The NSW Residential Tenancies Act 2010
- NSW Community Housing Policies (FACS)
- Community Housing Providers (Adoption of National Law) Act 2012 (NSW) incorporating the National Regulatory Code
- NSW Affordable Housing Guidelines (FACS)

1.1 Definitions

The following terms are used in this document, with specific meaning:

- a) "must" or "shall" or "will" designates a mandatory requirement or action
- b) "may" is an acceptable action or requirement but not mandatory
- c) "social housing" is subsidised rental accommodation for people on very low or low incomes who meet the eligibility requirements.
- d) "affordable housing" is subsidised rental accommodation for very low, low or moderate income tenants and in NSW is managed in accordance with the NSW Affordable Housing Guidelines. "transitional housing" is short-term accommodation with access to support services for people who are homeless or at risk of homelessness.
- e) "tenancy agreement" or "rental lease" or "lease" is the written agreement between WHC and the tenant with all terms and conditions of the tenancy.
- f) "client" is someone who receives a service from WHC and includes potential applicants, applicants and tenants.

2 Requirements

2.1 Complaints

Clients can offer feedback that is positive, negative or neutral on any aspect of a service that they receive from WHC. Feedback can be received over the telephone, by email, by letter, or in person.

Complaints made about WHC's service are registered and reviewed by the manager of the area that the complaint is about. If the complaint is about a member of staff, it will be reviewed by their manager.

Complainants will receive an acknowledgement that their complaint has been received by WHC within three working days. WHC will investigate and respond to all complaints in writing within 21 days of receiving the complaint.

Where an anonymous complaint is received, WHC will investigate the complaint, but any action taken may be limited to the observations or information that WHC can make in relation to the complaint.

If clients are unhappy with the action taken by WHC as a result of their complaint, they can make a further complaint to the NSW Registrar of Community Housing Providers. The Registrar will consider complaints that a registered communication housing provider is not adhering to the National Regulatory Code.

All complaints made to WHC are regularly monitored to ensure that they are responded to within the timeframe and to assess whether system changes are needed to improve the service WHC that offers applicants and tenants.

2.2 Appeals

All applicants and tenants have the right to appeal decisions made by WHC. Applicants and tenants can't make an appeal about the policies of WHC, just about whether or not those policies have been applied correctly and fairly.

WHC operates a two tier appeals process. The first tier of appeal is to WHC itself and the second tier is to the NSW Housing Appeals Committee (see section 2.2.2 below).

A tier one appeal of a decision has to be made within 60 days of the decision, except in the case of an offer of social housing, which must be made within 14 days.

In making a first tier appeal to WHC, the appellant should request WHC to review the decision, including determining whether the decision is in line with WHC policy, the reasons for the decision, and the information that WHC used to make the decision. Sometimes, decisions are made where both parties are not aware of the full facts or circumstances of the matter, and a discussion can sometimes resolve the problem.

In a tier one appeal, the matter is reviewed internally by a senior manager who was not involved in the original decision. The outcome of the appeal will be communicated in writing to the applicant or tenant within 21 days of the appeal being lodged, unless there are extenuating circumstances.

If an applicant or tenant is not satisfied with the outcome of a tier one appeal, they can make an application for a review of the decision by the NSW Housing Appeals Committee.

2.2.1 The NSW Civil and Administrative Tribunal

If an applicant or tenant is disputing a decision that relates to the Residential Tenancies Act 2010 or to their Residential Tenancy Agreement they can make an application for the matter to be heard at the NSW Civil and Administrative Tribunal (NCAT). NCAT, which is managed by the Office of Fair Trading, can hear matters relating to tenancy issues to do with:

- Termination notices
- Eviction notices
- Payment of rent
- repair charges that are levied to the tenant
- Property condition and maintenance
- And other tenancy matters as legislated under the Residential Tenancies Act, 2010.

Refer to www.ncat.nsw.gov.au for further details.

2.2.2 NSW Housing Appeals Committee

If an applicant or tenant is not happy with the outcome of the tier one appeal, they can then appeal to the NSW Housing Appeals Committee. The Housing Appeals Committee (HAC) will consider appeals in relation to the matters that cannot be heard by NCAT, including:

- General eligibility for or removal from the Pathways register or affordable housing waitlist
- The housing provided (type, size, level etc)
- Modification of the housing for medical reasons
- Housing location needs
- When an offer of housing is considered reasonable
- Management transfers
- Calculation of rent subsidies
- Water charges levied to the tenant
- Permission to be absent from premises and rent calculation for that period
- Length of tenure granted
- Continued eligibility reviews
- Relocation at the expiry of the head lease

HAC cannot adjudicate on appeals about WHC's policies, only on the implementation of those policies, and the objective of the appeals process will be to determine whether:

- Adequate consideration was given to the client's circumstance
- The decision was made contrary to WHC's policies
- The decision involved a poor interpretation of policy
- The procedure used to reach the decision was not fair and correct

In making an appeal to HAC, the applicant or tenant must use and sign a 'Second Tier Appeal Form' available from WHC in order that consent is given for HAC to obtain the client's file from WHC. WHC will not attend the appeal hearing, but will provide HAC with a summary of the reasons for the decision.

HAC will make recommendations to WHC as to whether the original decision is upheld, or should be changed, in full, or in part. HAC's decision is not binding and the final decision to amend the original decision does remain with WHC. WHC is required to respond to HAC within six weeks if HAC recommended that the original decision be amended.

See www.hac.nsw.gov.au for further details.

2.3 Fraud or Misconduct

Any feedback alleging dishonesty or misconduct by WHC or its representatives, including contractors and agents engaged by WHC, will be investigated. Fraudulent activity includes where a representative of WHC receives money or favours in return for a service.

Applicants and tenants can refer allegations of misconduct or fraud to the CEO or to the Chair of the Board of WHC. If they do not feel comfortable raising an allegation directly with WHC, or consider that previous complaints have not been dealt with satisfactorily, the complainant may raise the matter directly with the NSW Registrar for Community Housing (www.rch.nsw.gov.au).

Fraud is a criminal offence and allegations may also be taken direct to the NSW Police.

2.4 Advocacy

Applicants and tenants may use another person to advocate on their behalf. Where this occurs, WHC cannot release information about the complaint or appeal to the advocate without written signed permission from the client about this.

3 Privacy and Confidentiality Statement

The Women's Housing Company will ensure that all applicant and tenant information is kept confidential and will not release any personal information to a third party without the prior written consent or approval of the tenant or applicant, or unless where WHC is lawfully authorized or required to do so.

WHC will ensure that any personal and sensitive information is not collected, used, stored or disclosed other than for the proper purpose of its service. From time to time, de-identified demographic information may be released to third parties for statistical purposes only.