



Government of **Western Australia**  
Department of **Communities**



# Community Housing Regulatory Framework

**Internal Review and Appeals  
Guide - April 2017**



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## 1. Introduction

The Community Housing Regulatory Framework (Framework) is an administrative system of registration and regulation for Community Housing Providers (providers) in Western Australia. The Framework incorporates fundamental components of the National Regulatory System for Community Housing.

The Framework is designed to contribute to a well governed, well managed and viable community housing sector and the key objectives are to:

- ensure that oversight of Community Housing Providers is targeted to key areas of sector risk and the aims and intended outcomes of social housing;
- provide a consistent regulatory environment to support the growth and sustainable development of the community housing sector;
- ensure public investment in community housing is adequately protected against inappropriate use and retained for legitimate sector purposes; and
- provide confidence to government and financial institutions that organisations are financially viable and well governed.

## 2. Purpose of this document

The purpose of this Internal Review and Appeals Guide is to ensure consistency of approach in the quality of decision making by the Community Housing Registration Office and in the management of internal reviews.

## 3. Principles

The principles that underpin the Framework and which will be applied in relation to this guide are:

Proportionate:	reflecting the scale and scope of regulated activities;
Accountable:	able to justify regulatory assessments and be subject to scrutiny;
Consistent:	based on standardised information and methods;
Transparent:	clear and open processes and decisions;
Flexible:	avoiding unnecessary rules about how providers organise their business and demonstrate compliance with the National Regulatory Code;
Targeted:	focused on the core purposes of improved tenant outcomes and protecting vulnerable tenants; protecting government funding and equity and ensuring investor and partner confidence.



## 4. Decisions that can be reviewed and/or appealed

An internal review and appeal can be initiated by a registered provider or registration applicant (applicant) dissatisfied with a decision.

Before making a decision on registration or compliance (determination) under the Framework, the Community Housing Registration Office will provide a copy of the draft decision for review and comments by the applicant or registered provider. If the applicant or registered provider believes the draft decision is not accurate it can provide comments or additional information before the final decision is made. Comments and/ or information should generally be provided within 14 calendar days. This is not an 'internal review and appeal' - it is part of the normal assessment process that helps the Community Housing Registration Office reach a fair and correct decision.

A provider may lodge a request for an internal review and appeal in relation to any of the following decisions made by the Community Housing Registration Office:

- (1) A decision to refuse an application for registration or for the variation of a registration.
- (2) A final determination relating to an Application for Registration submitted by a provider.
- (3) A final determination relating to a provider's compliance review.
- (4) A decision to undertake enforcement action.
- (5) A decision to vary the Tier of a provider's registration.
- (6) A decision to cancel a provider's registration.

## 5. Internal Reviews

### 5.1 Purpose

Internal review and appeals can promote good practice by alerting the Community Housing Registration Office to deficiencies or discrepancies in decision-making practices. It is also a relatively quick and easy option for a provider to initiate before pursuing the more time consuming and resource intensive process of an external complaint.

### 5.2 Initiating an internal review and appeal

Registered providers and applicants must request the internal review and appeal in writing, clearly specifying which aspects of the determination or enforcement process or decision the provider disagrees with and the reasons why.

The Community Housing Registrar will acknowledge the request in writing and advise whether or not the request for an internal review and appeal is accepted. If the Community Housing Registrar declines the request for an internal review and appeal, the



Community Housing Registrar will explain the reasons for the decline (for example the request may be incomplete or not recognised as a reviewable decision by the Community Housing Registrar).

### **5.3 Who conducts the internal review and appeal?**

An internal review and appeal officer will be appointed by the Community Housing Registrar.

The internal review and appeal officer must be, as far as practicable an individual who was not substantially involved in the process of making the decision under review, and who is otherwise suitably qualified to deal with the issues raised by the application.

When an internal review and appeal is being conducted, the Community Housing Registrar is responsible for ensuring that the internal review and appeal officer and the process used for review are fit for purpose and will result in clear, documented, and justifiable outcomes.

### **5.4 Timeframes for an internal review and appeal**

An application for an internal review and appeal must be made by the registered provider or registration applicant within 28 calendar days of the date, the registered provider or applicant was notified of the original decision.

After a complete application for internal review and appeal is accepted, the Community Housing Registrar has six weeks to notify the registered provider or applicant of the outcome of the internal review. Within this six week timeframe the independent internal review and appeal officer has three weeks or 21 calendar days (or such period the Community Housing Registration Office and the registered provider or applicant agree) to complete the review and notify the Community Housing Registrar of their recommendations.

### **5.5 Stay of decision pending the outcome of an internal review**

In some situations the Community Housing Registration Office may decide that the decision is to be stayed pending the determination of an internal review and appeal. When this occurs, the Community Housing Registration Office must notify the registered provider or applicant with written notice of the decision and whether the decision is to be stayed pending the determination of the review.

### **5.6 Evidence and information to be considered**

In broad terms, an internal review and appeal will consider, as well as taking into account new information:

- all original documents relating to the original decision;
- new information submitted by the registered provider or applicant;
- the merits of the decision i.e. whether the correct decision was made in accordance with provisions of the Framework and the evidence provided;



- the decision making process i.e. whether the decision making process was applied correctly and fairly, according to the principles of the Framework.

### 5.7 Report on internal review and appeal outcome – to Community Housing Registrar

At the end of an internal review and appeal, the internal review and appeal officer will make written recommendations to the Community Housing Registrar that affirm, vary or set aside the original decision.

The information should be in the form of a report structured as follows:

#### *Summary*

- This section is a summary of the issues as stated by the registered provider or applicant.

#### *Background*

- The information provided in this section must be relevant to the issues raised by the registered provider or applicant.

#### *Issues*

- Issues as defined by internal review and appeal officer.

#### *Framework and guidelines*

- References should be made to the relevant sections in the Framework, appendices or guidelines.

#### *Discussion*

This section must:

- Outline how the relevant sections of the Framework, appendices or guidelines is related to the original decision;
- Discuss any new evidence provided or available since the original decision, and whether this is relevant to the original decision;
- Outline all reasons for making a recommendation as to whether to:
  - Affirm the original decision; or
  - Vary the decision; or
  - Set aside the decision and make a decision in substitution for the decision that is set aside.

#### *Outcome of internal review and appeal*

- This section must clearly state the decision(s) of the Community Housing Registrar.

#### *Attachments*

- List all documents individually and any other sources of information, such as verbal advice, that have been considered while completing the internal review and appeal.



The registered provider or applicant will be notified in writing of the internal review and appeal outcomes and given reasons for upholding, varying or changing the original decision. Where the original decision is varied or changed, a new decision will be issued by the Community Housing Registrar.

## 6. Complaints to the Ombudsman

The Ombudsman office receives, investigates and resolves complaints about administrative decisions and practices of public authorities. A key function of the Ombudsman is to help resolve disputes with public authorities and help those authorities be accountable for, and improve the standard of their administrative decision making, practices and conduct.

The Ombudsman can only make recommendations to public authorities on complaints it receives, it does not have the power to make binding decisions or orders.

If a provider considers that the procedures adopted by the Community Housing Registration Office lack procedural fairness, or that the Community Housing Registration Office has not acted in accordance with those procedures, then the provider may at any stage of the registration and compliance assessment process lodge a complaint to the Ombudsman.

The Ombudsman will expect complainants to first resolve their grievance with the Community Housing Registration Office before lodging a complaint with them.

The complaint must be lodged to the Ombudsman in writing. The Ombudsman's contact details are available at: [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au).

Note: Decisions of the Community Housing Registration Office are not within the jurisdiction of the State Administrative Tribunal (SAT), therefore a provider cannot lodge an appeal to the SAT against decisions of the Community Housing Registration Office.