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Internal Appeals Policy

Northern
Suburbs
Housing
Community
inc.

Secure affordable housing for seniors

Table of Contents

- 1 Versioning 3
- 2 Informal Dispute Resolution 3
- 3 Eligibility to Appeal 3
- 4 The Appeals Sub-committee Structure 3
- 5 Lodging an Appeal 4
- 6 Preparing for an Appeal 4
- 7 Hearing an Appeal 5
- 8 Making a Decision 6
- 9 Implementing a Decision 7
- 10 Appeal to the Housing Appeal Panel 7

1 Versioning

The Association will maintain a history of policy versions. Minor amendments such as the following do not require a new policy version to be created:

- typographical corrections
- changes to the format of a policy
- changes to the number of a policy
- changes to the name of an agency, service provider, contractor, office bearer or employee position

2 Informal Dispute Resolution

The Association has developed a process for informal complaint and dispute resolution which should be considered prior to the lodgement of an appeal.

NOTE: The Internal Appeal process of the Association is to be distinguished from the appeal process to the Housing Appeal Panel (HAP) or the successor of that office.

The Association's Internal Appeal process is only available to tenants of the Association and the tenant's dispute must be tenancy related.

3 Eligibility to Appeal

If tenants have complaints about any of the issues below, it can be the basis for an appeal to the Appeals Sub-committee:

- A tenancy decision relating to a dispute with another tenant of the Association;
- A tenancy decision relating to a dispute between the tenant and the Association;
- A tenancy decision made by the Association which is contrary to the Rules and Policies, and which the tenant believes is unreasonable, oppressive or unjust.

Only the person who is directly impacted by the original decision may initiate appeal proceedings (with support if necessary).

If the appeal concerns a breach of criminal or civil law it will be reported to the South Australian Police as a matter of course and the appellant will be notified.

Where procedures are stipulated by law those procedures will take precedence over the Association's internal procedures.

4 The Appeals Sub-committee Structure

The Appeals Sub-committee will be appointed by the Board under Rule 6.1g.

The Appeals Sub-committee will consist of a minimum of five (5) people, from which three (3) will be chosen, each time an appeal is lodged, to form an Internal Appeals Panel, consisting of:

- at least two persons with appropriate experience who have no affiliation with the Association,
- at least two persons who are tenants of the Association, and,
- one Board Member nominated by the Board (excluding the Chairperson)

Provided however that two members of the one family or household shall not be appointed to the Appeals Sub-committee.

The selected Appeals Panel members must be available to conduct the appeal in its entirety to

ensure the principles of natural justice are observed.

Any decision to fill a casual vacancy to the Appeals Sub-committee will be made at the discretion of the Board.

An Appeals Panel Convenor will be selected by the Appeals Sub-committee's members. The Appeals Panel Convenor duties will be as stipulated in this policy.

The Executive Officer will liaise with Community Partnerships & Growth's Learning and Development team to organise training for the Appeals Sub-committee members to ensure that they understand the appeal procedures, principles of natural justice, conflict of interest and decision-making.

If after the Appeals Panel has made a decision, the appellant appeals to the Housing Appeal Panel (HAP) or the successor of that office, the Appeal Panel's decision cannot be acted upon by the Association until the appeal with HAP has been determined.

The Association may negotiate with another Association, for potential exchange of Appeals Panel members, to ensure that the Appeals Panel remains impartial. The Association may also choose to use an Independent Appeals Panel Convenor and/or an Independent Appeals Panel member for the purpose of appeal hearings. This might be agreed in the event of an appeal being lodged.

The Association delegates its authority to hear appeals, and make decisions about these appeals, to the internal Appeals Panel which is formed by the Appeals Sub-committee in the event of an appeal being lodged.

5 Lodging an Appeal

Appellants will be given a twenty (20) working day timeframe, from the date of receipt of notification of the decision, to lodge an application for an appeal of that decision.

The appeal application must be lodged in writing and include:

- the name and contact details of the person lodging the appeal
- the name and contact details of the respondent (who it is against – where available)
- information regarding the initial dispute and consequent decision
- a clear statement regarding the reason/s why the decision is being appealed
- any action that has been taken to attempt to resolve the dispute

The appeal application will be sent to the Association in an envelope marked "Appeal: For immediate action (confidential)". The employee responsible for correspondence will pass the envelope by hand, unopened, to the Appeals Panel Convenor as soon as practically possible.

6 Preparing for an Appeal

The Association will keep a register of appeals to their Appeals Sub-committee and of any matters which are appealed to the Housing Appeal Panel (HAP) or the successor of that office.

The Appeals Panel Convenor will, within five (5) working days of receipt of the appeal application:

- enter details about the appeal in the confidential Appeals Register
- acknowledge to the appellant that the appeal has been received
- notify the Appeals Sub-committee and the respondent that an appeal has been lodged

The Appeals Panel Convenor and the other Appeals Sub-committee members will meet within

ten (10) working days of receiving an appeal application to make a decision about which three (3) members will form the internal Appeals Panel to hear the appeal as per this policy.

They will also decide who will take on the role of Appeals Panel Convenor if the designated Appeals Panel Convenor is unable to hear the appeal.

They will ensure that the members chosen will not have been involved in the dispute in the past, and will not have a conflict of interest in the matter. A conflict of interest arises when any of the internal Appeals Panel members:

- might gain financially, personally or in any other way by an appeal or its outcome, or
- might be perceived to benefit by an appeal or its outcome

If it is not possible to find three (3) Internal Appeals Panel members who do not have a conflict of interest in the matter, the Appeals Panel Convenor will approach other people who do not have a conflict of interest, for example:

- other persons with appropriate experience who have no affiliation with the Association , or
- an Appeals Panel member from another registered community housing provider

A register of people who can assist is available through Community Partnerships & Growth, Learning and Development team, or the successors to that office.

The Appeals Panel Convenor will request and collect all relevant documents from the applicant, respondent/s and the Association. Each party must freely give this relevant information.

The Appeals Panel Convenor will distribute the documentation relevant to the appeal to the appellant and the respondent. All parties must be given the same information.

The Internal Appeals Panel has the right to access any relevant and appropriate information necessary for the appeal hearing.

The Appeals Panel Convenor will set a time and place for the hearing of the appeal, which must take place within 40 working days of the lodgement 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 ten (10) working days).

7 Hearing an Appeal

Appeals will be heard by:

- The Appeals Panel Convenor (non-voting)
- one person with appropriate experience who has no affiliation with the Association
- one person who is a tenant of the Association
- one member of the Board (excluding the Chairperson)

The appeal hearing will include:

- the chosen Internal Appeals Panel members (including the Appeals Panel Convenor)
- the appellant
- the respondent (when the respondent to the dispute is the Association, the Chairperson and/or any other relevant office bearer can act as the respondent party)
- the appellant's and respondent's support person(s) and advocate(s)
- the Association's Executive Officer to take minutes and provide advice, as required, during the appeal hearing

The Internal Appeals Panel will take all reasonable steps to ensure that the appeal process is

completed as quickly as possible.

The Internal Appeals Panel will hear and consider all relevant written and verbal information from all parties relating to the appeal. The Internal Appeals Panel may request any relevant and appropriate information, documents, witnesses or assistance that Appeal Panel 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 Internal Appeals Panel 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 also be considered confidential unless agreed otherwise by all parties.

If the Association does not respond to a request for an appeal in accordance with this policy, the appellant has the right to appeal directly to the Housing Appeal Panel (HAP) or the successor of that office.

Where a mediation/conciliation process is initiated during the appeal process, the timeframe set out in the Association's Internal Appeals 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 Panel proceedings will be accurately recorded and the record will be kept at the Association's office, along with all the information relevant to the appeal.

Any decision made by the Appeals Panel must be in accordance with and not contravene the Association's current Rules and Policies.

8 Making a Decision

When the Appeals Panel 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 Appeal Panel members hearing the appeal.

Within five (5) working days of the hearing, the Appeals Panel Convenor will provide a written report of the appeal to the Association's Board, the appellant and the respondent.

The appeal report will include:

- date, time, location
- Attendees
- original decision making group/individual
- mediation attempts / alternative dispute resolution attempts prior to the appeal
- original decision to be reviewed
- reason/s for original decision, i.e. what facts, correspondence, Rules, Policies, Procedures, etc. were 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 Appeals Panel met and what information was heard
- the Internal Appeals Panel's decision
- all of the reasons for the decision (including Regulations, Rules, Policies, Procedures)

If the Internal Appeals Panel cannot make a decision at the initial appeal hearing, it will reconvene as soon as possible, and within ten (10) working days of the hearing, to make a decision.

All Appeals Panel members at the initial hearing will be present for the subsequent hearing, to ensure that everyone hearing the information available will also be part of the decision making process.

The appellant must be advised in writing that they have a right to appeal to the Housing Appeal Panel (HAP) or the successor of that office, should he/she be dissatisfied with the appeal outcome or process.

9 Implementing a Decision

The Association's Board, or their delegate, will implement the decision, or monitor whether the decision has been implemented.

The appellant will inform the Board within ten (10) working days of being notified of the decision, if he/she is appealing the matter to the Housing Appeal Panel (HAP) or the successor of that office, as implementation of the decision can then be put on hold until the finalisation of the Housing Appeal Panel (HAP), or the successor of that office, appeal.

If a matter is further appealed to the Housing Appeal Panel (HAP), no decision made by an Internal Appeals Panel will be acted upon until the finalisation of the HAP appeal.

10 Appeal to the Housing Appeal Panel

The appellant is able to appeal to the Housing Appeal Panel, or the successor of that office, within twenty (20) working days of receiving the decision (i.e. the Internal Appeals Panel's decision).