

### ASKING HOUSING ACT TO CHANGE A DECISION

Because Housing ACT is a government body, its decisions are subject to review. If you think a decision is wrong or unfair, you can usually apply to have it changed by seeking a 'review of decision', or, in other words, by 'appealing' the decision.

How you go about appealing depends on what the decision is about and what stage of the appeal process you are up to. You can appeal decisions relating to **housing assistance matters** and some **tenancy matters**. These two categories are dealt with separately below.

### APPEALING A HOUSING ASSISTANCE MATTER

**Housing assistance matters** you can appeal include a decision:

- to refuse your application for housing assistance
- about any of the eligibility criteria (except the minimum age limit)
- about your waiting list category (Standard, High Needs or Priority)
- refusing to put you back on the Housing Register (waiting list)
- refusing to transfer you to different accommodation
- not to give you a rent rebate
- about the amount of a rent rebate
- about your assessable income, assets or compensation.

Housing ACT have rules which say that some decisions can't be reviewed or appealed, however, it is always worth seeking legal advice if you believe a decision is wrong or unfair because, in some circumstances, you still may have grounds for appealing.

### Requesting review

If you think there is a problem or mistake, as a first step you can contact Housing ACT and talk to the person who made the decision. It may be a problem that is easily fixed, for example by providing updated information.

If this is not successful and you wish to appeal the decision, you should complete and lodge an 'Application for Review of Decision' form, available from the Housing ACT Applicant Services Centre, by contacting the Operational Services Unit within Housing ACT or from the Housing ACT website at: <http://www.dhcs.act.gov.au/hcs/publications#forms>.

### Which level of review?

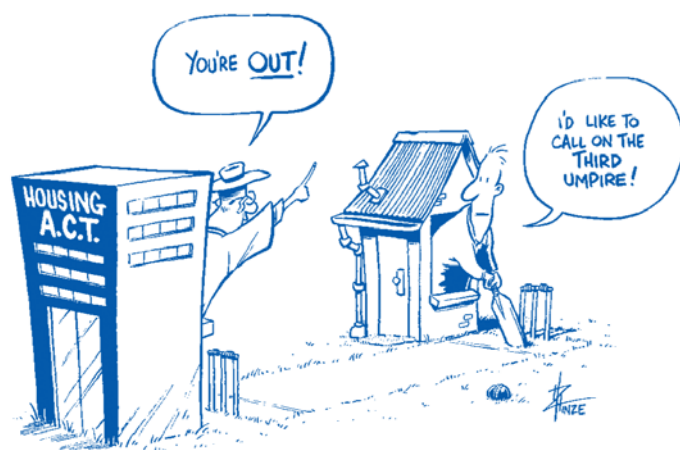
There are two levels of review by Housing ACT. On your first appeal, you will need to mark the 'first-level review' box on the form. If your first-level review doesn't succeed, you will then be seeking 'second-level review'.

### Applying for review

In completing the 'Application for Review of Decision' form, you should set out the grounds on which you are seeking review in a full and detailed manner and attach any supporting documentation or evidence.

If you are short of time, you can lodge the form with a brief explanation of your reasons for appealing and stating that you will supply further documents within a specified timeframe. It is better to get the form in with only brief details, than to lodge the form late.

Make sure you keep a copy of the appeal form and any documents you have attached, along with a record of when you submitted the form. The safest way to lodge your appeal is to take it to the Housing ACT Applicant Services Centre and ask them to make you a date-stamped photocopy of your appeal documents. If you can't get in to the Applicant Services Centre, sending your appeal by Registered Post is a good alternative. Again, make sure you keep a complete copy for your own records and in case your documents are mislaid by Housing ACT.



Welfare Rights & Legal Centre

Advice Line  
6247 2177

## TIME LIMITS

### First-level review — 28-day time limit

The time limit for first-level appeals on housing assistance matters is 28 days from the date you received written notice of the decision.

### Second-level review — 28-day time limit

The time limit on appealing against an unsuccessful first-level review to a second-level review is 28 days from the date you receive written notice of the first decision.

If you miss the deadline, you can ask for an extension of time. The best way to do this is by talking to someone in the Operational Services Unit of Housing ACT. If this is not successful, you can make a formal written application for your appeal to be considered 'out of time'. Housing ACT has a discretion to consider appeals lodged out of time. You will need to set out why your request is late and, in some circumstances, provide evidence (eg, a doctor's certificate if you have been ill).

If your late application is refused, the only avenue available to you is to appeal that decision to the ACT 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. See **The ACT Administrative Appeals Tribunal** (WRLC Fact Sheet 10).

### What happens after I lodge the first request for review?

A Housing ACT officer (usually someone senior to the initial decision maker) will consider your request and review the decision. This is a 'first-level review'. 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. Housing ACT must notify you in writing of the outcome of your request for

review within 28 days of making their decision.

### What if my review fails?

If you want to appeal against an unsuccessful first-level review, you will need to lodge another 'Application for Review of Decision' form within the 28-day time limit.

The information you put on the form can be quite brief and you need not attach extra documentation at this stage. You might want to seek some legal advice at this stage or get help from a family member or support worker in putting together your request for second-level review.

### What happens after I lodge a second-level review?

Second-level reviews are considered by the Housing Assistance and Tenancy Review Panel ('HATRP'). This is an internal panel of senior Housing ACT officers. The Panel meets privately and considers matters solely based on the documentation before it. It does not allow people to attend its meetings or to put their case in person. For this reason, you need to submit your case in writing for it to be considered by the Panel.

To make its decision, the Panel relies on a statement and attachments specially prepared for HATRP by other Housing ACT officers (who will usually have been involved in making the first decision). This should include any material you previously supplied to Housing ACT. You should be sent all of this material after you lodge your request for second-level review. Generally, you will be given 7 days to respond to the material and provide any comments of your own.

If you don't receive anything in the mail, request a copy of the HATRP statement (and all of the attachments) from the Operational Services Unit in Housing ACT. At the same time, you can negotiate

the date when you will submit your statement and any other documents you are going to rely on.

It is important to carefully review all the material you are provided with. This way you have the opportunity to correct any mistakes and to address and clarify all the issues that are of concern to Housing ACT.

Having reviewed the HATRP statement and attachments, you can now put together your appeal documents. These could simply be a repeat of your first-level review documents, or you may need to provide extra evidence or documentation to address issues that are raised in the HATRP statement and/or to strengthen your case.

Once it has considered all the documents, HATRP will make a recommendation to the Commissioner for Social Housing — either to confirm the original decision; to change it; to take other action; or to seek further information.

The Commissioner will consider this recommendation and make a decision. You should be sent a letter within 28 days of the date that the Commissioner makes the decision.

### What if my second-level review fails?

For Housing Assistance matters (as listed above) your next appeal will be to the **ACT Administrative Appeals Tribunal** (See WRLC Fact Sheet 10).

## APPEALING A TENANCY MATTER

You can also choose to appeal some decisions about some tenancy matters, such as:

- market rent increases
- the issue of a notice to remedy or notice to vacate
- tenant responsible maintenance.

Appealing **market rent increases** is dealt with in **Market Rent Increases** (WRLC Fact Sheet 6).

Appealing **tenant responsible maintenance charges** is dealt with in **Damage to Your Housing ACT Property** (WRLC Fact Sheet 17).

Strictly speaking, tenancy matters are dealt with by the Residential Tenancies Tribunal, however, Housing ACT offers an informal opportunity for review of some tenancy matters before making a decision to go to the Residential Tenancies Tribunal.

### Time limits

If your appeal relates to tenancy matters, you usually have 7 days from the date you received notice of the decision. If you need more time, contact the Operational Services Unit and explain why you need more time and when you will submit your appeal letter. Unfortunately, because review of a tenancy matter by Housing ACT is an informal process, there is no way to enforce getting extra time if Housing ACT doesn't agree to your request. If you find yourself in this situation, it is important to seek legal advice about what could happen next in your particular situation.

### Appealing a Notice to Remedy

Housing ACT don't usually invite tenants to appeal Notices to Remedy, however, if you feel the notice is wrong, you should write a letter to Housing ACT explaining why the notice is

wrong and requesting that they withdraw the notice. If you are unsure about whether the notice should have been made or what the consequences might be, seek legal advice.

### Appealing a Notice to Vacate

If the appeal relates to a Notice to Vacate it will usually be in your interests to appeal the decision to Housing ACT at this stage. You may find the fact sheets listed below useful in showing the points you should cover in your appeal letter. As above, if you are unsure about whether the notice should have been made or what the consequences might be, seek legal advice.

There are four possible outcomes on an appeal against a Notice to Vacate:

1. Housing ACT accepts your appeal and no further action is taken.
2. Housing ACT accepts your appeal conditional on you taking certain steps (which you may have set out in your appeal letter).
3. Housing ACT partly accepts your appeal and advises you that they will apply to the Residential Tenancies Tribunal for a Conditional Termination and Possession Order. A Conditional Order allows you to stay in your property provided you pay your rent and an amount towards arrears on time, every time. Any missed or late payment means Housing ACT can apply straight to the Residential Tenancies Tribunal for a Warrant for Eviction. If you have not already done so, you should get legal advice at this stage to check whether there are correct grounds for a Conditional Order to be made. See also **Conditional Orders** (WRLC Fact Sheet 14);
4. Housing ACT rejects your appeal and recommends that Housing ACT apply to the Residential Tenancies

Tribunal seeking your eviction. If this happens, your matter should automatically go to another level of review by the Housing Assistance and Tenancy Review Panel (HATRP). See the section above 'What happens after I lodge a second-level review' for full details on this process. HATRP will review all the information from the tenancy area and any information you supply to decide whether Housing ACT will apply to the Residential Tenancies Tribunal for a Termination and Possession Order.

You will be advised in writing of the outcome of the HATRP review. If the decision is to seek a Termination and Possession Order (that is, an eviction order) or a Conditional Order, you should seek immediate legal advice.

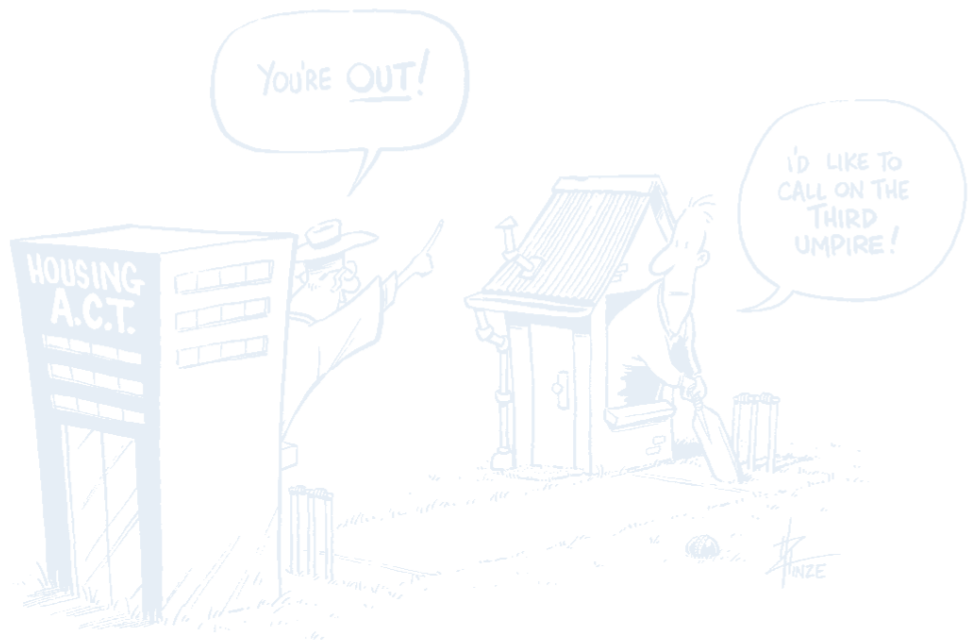
See **Eviction from Your Home** (WRLC Fact Sheet 12)

See **Defending an Eviction** (WRLC Fact Sheet 13)

See **Conditional Orders** (WRLC Fact Sheet 14)

If your appeal on a tenancy matter relating to rent increases or a repair, security, modifications or other property related matter has failed you may need to make your own application to the RTT. You should obtain legal advice specific to your situation **before** making your application.

For more information on the RTT see **The Residential Tenancies Tribunal** (WRLC Fact Sheet 11).



**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.

April 2008