

THE ACT ADMINISTRATIVE APPEALS TRIBUNAL

The ACT Administrative Appeals Tribunal ('AAT') is an independent body set up to review decisions made by government departments or agencies, including Housing ACT. This sort of review by an independent body is known as 'external review'.

WHAT DECISIONS CAN THE AAT REVIEW?

The AAT reviews decisions that Housing ACT have made under the Public Rental Housing Assistance Program ('the Program'), provided you have gone through Housing ACT's internal review process first. Decisions made under the Program are often referred to as 'housing assistance matters'.

The AAT **cannot** review decisions about tenancy matters such as eviction, rent arrears, repairs, security or noise and nuisance. These matters are dealt with in the **Residential Tenancies Tribunal** (WRLC Fact Sheet 11).

Reviewable housing assistance matters include decisions:

- on your application for housing assistance or transfer
- that you are no longer eligible for housing assistance
- on your allocation (Priority or High Needs housing) status
- removing or refusing to put your name back on the Applicants List (waiting list)
- on the grant or refusal to grant rent rebate or amount of rebate
- on your assessable income, assets or compensation in relation to rebate; **and**
- on your assessable income, assets or compensation in relation to your eligibility for housing.

You can also apply to the AAT requesting Housing ACT to provide full reasons for a decision they have made.

The Housing Program says that some decisions by Housing ACT are not reviewable. If you think a decision that you have been told is not reviewable is wrong or unfair, it can be worth seeking specific legal advice about whether you still may have appeal rights in your particular situation.

Alternatively, some decisions that are not reviewable in the AAT can be reviewed in the Supreme Court. This is a complex jurisdiction that also has the power to award costs against unsuccessful applicants, so you should seek legal advice before making any application.

WHEN TO APPLY TO THE AAT

The AAT reviews second-level Housing ACT decisions. Before you can apply to the AAT, you must have first sought both first-level review and second-level review by Housing ACT and have been sent a letter by Housing advising you of their decision on your request for second-level review.

For more information on first and second-level reviews see **The Appeals Process** (WRLC Fact Sheet 9).

If you requested a second-level review and haven't received notice of the decision within a reasonable timeframe, you should seek legal advice on what options may be available to you.

Time Limits

You have 28 days following the date on which you received notice of the Housing ACT decision to make an application for review. If your application is late, the AAT may grant you an extension of time in which to lodge the application if you provide reasons why the application is out of time.

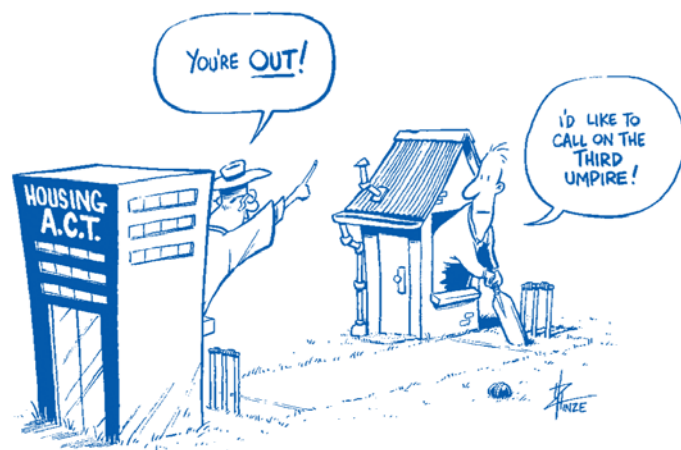
HOW TO APPLY TO THE AAT

You will need to lodge an 'Application for Review of Decision' form with the AAT registry. This form requires your name and contact details (or the contact details of your representative), a description of the decision you want reviewed (or a copy of the written decision), the date you received the decision, and your reasons for making the application.

There is no filing fee for applications lodged against Housing ACT decisions. The AAT is located in the Magistrates Court complex, 4 Knowles Pl, Canberra City, Tel 6207 1740 or go to www.courts.act.gov.au

THE AAT PROCESS

After you lodge your application for review with the AAT, notice of your application will be served on Housing ACT. At this point, Housing ACT is required to provide the AAT with all of the documents in relation to your application (including a statement of reasons for the decision) within 28 days. These documents are known



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Advice Line
6247 2177

as the 'T docs', and a copy of them will be sent to you (or your representative). You should read these documents carefully.

Preliminary Conference

At or around the same time you receive the T docs you may receive notice to attend a 'preliminary conference'. A preliminary conference is a relatively informal opportunity for the parties to come together to discuss the appeal in the presence of a Tribunal Member. The Member's role at this conference is to help the parties identify the issues in dispute and explore options for resolving the dispute by agreement without the need for a hearing.

Directions Hearing

Sometimes matters are resolved at the preliminary conference. If they are not, the matter must proceed to a hearing. Sometimes the Tribunal Member at the preliminary conference will set the dates for the final hearing. Otherwise the matter will be listed for a 'directions hearing'. The AAT will send you a notice indicating the time and place of the directions hearing. At the directions hearing a Member will ask you how much time you need to submit a document setting out the facts and any arguments you wish to make (this document is formally known as a 'Statement of Facts and Contentions'). You will also be required to submit witness statements and a 'Witness List' — a list of the witnesses that you intend to call.

You should ensure that you have evidence for any facts you are alleging that may be disputed by Housing ACT (eg, a letter from your doctor indicating you have a health problem that prevents you from climbing stairs).

The Member will need to set a date for the hearing of the matter and will ask both parties how much time they require to prepare. Make sure you give yourself enough time to contact your witnesses and to submit your Statement

of Facts and Contentions and your Witness List.

Statement of Facts and Contentions

It is important that you include all the relevant information in your Statement of Facts and Contentions. Remember that you should provide evidence for any facts that may be in dispute.

You should also include your 'contentions' in this document. Contentions are the legal arguments that you wish to put to the Tribunal to show why the decision should be made in your favour. You may need to draw on some of the following sources to assist you in drafting them (this list is not exhaustive): Housing ACT policy documents <http://www.dhcs.act.gov.au/hcs/policies>; The Public Rental Housing Assistance Program <http://www.dhcs.act.gov.au/hcs/legislation>; Previous AAT decisions <http://www.courts.act.gov.au/magistrates/index.html>; and ACT Supreme Court decisions <http://www.courts.act.gov.au/supreme/default.asp>. Austlii <http://www.austlii.edu.au/> is a free legal search engine you can use to research decisions of various Tribunals and Courts.

Make sure you submit your Statement of Facts and Contentions, all witness statements, and your Witness List to the AAT by the date set. You must also send a copy of these documents to Housing ACT. You should receive a copy of Housing ACT's Statement of Facts and Contentions on the date by which they were required to submit their documents.

Finally, ensure that all your witnesses can be present at the hearing, or failing that, will be available by telephone on the day of the hearing.

The Hearing

Hearings are generally informal, and provide both parties with the opportunity to put their side of the case to the Tribunal, by calling

witnesses and making arguments to the Tribunal on questions of law and/or policy. If you are not represented, the Tribunal Member will try to help you feel at ease and guide you through the Tribunal process. However, the Tribunal Member cannot argue the case for you.

Tribunal proceedings are generally open to the public and are tape-recorded. It can be helpful to go to the Tribunal and sit in on a hearing to see how the hearing is conducted. This is strongly advisable if you are not going to be represented at the hearing by someone else. Details of Tribunal hearings are printed in The Canberra Times Law List and are available on the internet via the ACT Magistrates Court website.

In some circumstances, the Tribunal may agree to hold the hearing in private and to prohibit or restrict publication of evidence and documents if it is satisfied there is a sufficient reason for this to happen. If you believe your case justifies a confidentiality order, it is a good idea to raise this with the Tribunal Member at the preliminary conference or directions hearing.

The Tribunal sometimes gives its decision and reasons orally at the end of the hearing, although usually it will give its decision in writing at some later date. If a decision is not made on the day, the Tribunal registry will notify you when it becomes available.

ACT SUPREME COURT

If your appeal to the AAT is unsuccessful, you can appeal to the ACT Supreme Court — but on a point of law only. The Supreme Court cannot review an issue that relates to the facts of the case or the merits of the case. You have 28 days from the date of the AAT's decision to lodge your appeal. If you are contemplating this further appeal you should seek legal advice.

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.

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