

# Complaint handling

## Information for Community Housing Providers

November 2018

**This fact sheet sets out the types of complaints that may be addressed by Housing Registrars in each State or Territory. It explains in broad terms how Housing Registrars will engage with a Community Housing Provider (CHP) registered under the National Regulatory System for Community Housing (NRSCH) when a complaint is made about their compliance with the law.**

This information only applies to community housing operated by CHPs registered under the NRSCH. It does not apply to other forms of rental accommodation such as public (government managed) or private rental accommodation, as these are dealt with under different regulatory frameworks.

### The role of Housing Registrars

Housing Registrars will deal with complaints and allegations relating to dissatisfaction with registered CHP's compliance with the **Community Housing Providers National Law** (the National Law) including the National Regulatory Code.

Note that in addition to registered CHPs' obligations to operate in compliance with the National Law requirements, CHPs usually have additional responsibilities arising from other tenancy or housing legislation. Should a complaint fall within this other legislation, then the Housing Registrar may refer the complainant to another appropriate body, for example, a Tribunal that deals with breaches of a lease.

Where tenants, residents and other clients and/or their representatives contact the Housing Registrar because they are dissatisfied with the outcome of a CHP's internal complaint or appeal policies and these are not matters the Housing Registrar can investigate, the Housing Registrar may assist the complainant with a referral to an appropriate body as outlined in the fact sheet - **Complaint handling - Information for Tenants**.

### What types of complaints will Housing Registrars address?

Housing Registrars deal with complaints about compliance with the National Law including the National Regulatory Code. These may extend to such matters as systemic business failures, inappropriate corporate activities, misallocation of government funding, undesirable tenancy or maintenance practices, and allegations of fraud or corruption. These matters do not include, or extend to, individual tenancy disputes, rent disputes, minor maintenance disputes, or internal personality conflicts, unless any of these matters can be shown to be of a systemic nature on the part of the CHP and therefore a potential threat to its ongoing viability and compliance.

Any allegations of a significant nature, involving fraud, corruption, misappropriation of funds, misappropriation of assets, or any other form of criminal or illegal behaviour may be notified to the police and progressed accordingly. Whistleblower protection provisions may also be applicable in the case of staff or volunteers who have concerns regarding the internal functioning of the CHP with which they are associated.

Housing Registrars have undertaken to deal with complaints in a fair, equitable, unbiased and timely manner. Where another body is investigating the complaint or aspects of the complaint which the Housing Registrar has an interest in, then it may be appropriate for the Housing Registrar to place their investigation on hold pending the outcome of the other body's investigation.

## **NRSCH Enforcement Guidelines**

If it appears that a complaint demonstrates a potential breach of the National Law, Housing Registrars will then progress the complaint in a manner consistent with the principles outlined in the NRSCH Enforcement Guidelines.

These principles require that Housing Registrars engage with CHPs in a manner that is;

- Proportionate – enforcement powers will be used only when necessary and in a way that is appropriate to the assessed level of risk,
- Accountable – able to justify regulatory assessments and be subject to scrutiny,
- Consistent – enforcement will be consistent regardless of the jurisdiction in which the provider operates,
- Transparent – there will be clear and open communication with providers about enforcement processes and decisions,
- Flexible – enforcement will avoid unnecessary rules about how providers organise their business and demonstrate compliance, and
- Targeted – enforcement will be focused on the core purposes of improving tenant outcomes and protecting vulnerable tenants, protecting government funding and equity, and ensuring investor and partner confidence.

All complaints dealt with by Housing Registrars will therefore be progressed in a manner consistent with these principles.

### **Assessment of the nature and urgency of the complaint**

In addition to the above principles, Housing Registrars will progress complaints in a manner which considers the urgency of the matter, the seriousness of the complaint, and the potential consequences of an ongoing breach of the National Law.

## **Potential outcomes**

Subject to the outcome of their enquiries or investigations, and the severity of any identified breach, Housing Registrars may choose to apply one of the following approaches to remedy a proven case of non-compliance on the part of a CHP;

- Regulatory engagement (ie a negotiated outcome),
- Issuing of a Notice of Non-Compliance,
- Giving Binding Instructions,
- Issuing a Notice of Intent to Cancel Registration,
- Appoint a Statutory Manager, or
- Cancellation of a CHPs Registration.

### **Some decisions of the Housing Registrar are appealable**

A decision by a Housing Registrar may be appealable by CHPs to the relevant review panel in each jurisdiction.

For example, CHPs may appeal the following enforcement decisions of a Housing Registrar:

- a decision to issue Binding Instructions
- a decision to appoint a statutory manager
- a decision to cancel the entity's registration.

The appeal process will follow the provisions of the National Law and the procedures of the relevant review panel or Appeal Tribunal. Note that appeal processes are not uniform across participating jurisdictions.

### **Ongoing regulatory monitoring and compliance assessments**

All CHPs registered under the NRSCH are subject to regular compliance assessments. Consequently, all complaints forwarded to Housing Registrars, irrespective of their outcome, serve to better inform the regulatory process and therefore assist in improving outcomes for the community housing sector.

## The role of the funding bodies

Funding bodies in each jurisdiction provide financial support to the community housing sector and are a separate arm of government to Housing Registrars and their offices. Consequently, while funding bodies may not have prescribed regulatory functions, they do retain a significant financial and contract management interest in the operations of CHPs, arising from the various contractual funding agreements. Consequently, Housing Registrars may need to liaise with, and/or refer to, a particular jurisdictions' funding body, any complaints that carry contractual implications. Registrars will only disclose information in accordance with the information sharing provisions contained within Section 26 of the National Law.

## The role of other regulatory and review bodies

Depending upon the nature of a complaint it is highly likely that there may be other government regulatory or review bodies with an interest, or involvement, in the processing of a complaint against a CHP. These may include tenancy review panels, tenancy or membership appeal panels, housing authorities, business licensing authorities, police and/or other stakeholders. As is the case with the funding bodies, Housing Registrars may need to liaise with, and/or refer to another regulatory or review body, any complaints or aspects of a complaint that fall outside of the Housing Registrar's authority or which are best investigated by another body.

Depending upon circumstance, these bodies would most likely be involved in issues such as complaints or allegations relating to tenancy and maintenance disputes, membership appeals, minor breaches of contractual agreements, internal CHP conflicts or disagreements, bond and rent disputes, evictions, and tenant selection processes etc. Decisions to involve other bodies will be made on a case by case basis, dependent on the issues and circumstances.

## Additional information and contacts

Additional information on the NRSCH can be found at: <http://www.nrsch.gov.au/>

For additional information on how different types of complaints might be dealt with, as well as a broad overview of the role of various regulatory and review bodies' roles and functions, refer to the following fact sheets :

- *Complaint handling - Information for tenants.*
- *Complaint handling- Information for neighbours and related parties.*

To contact your local Housing Registrar's office, please see the attached list of contact details.

<p><b>Australian Capital Territory</b>          Human Services Registrar          Quality, Complaints and Regulation          PO Box 158          Canberra ACT 2601          Phone: (02) 6207 5474  <a href="mailto:quality@act.gov.au">Email: quality@act.gov.au</a></p>	<p><b>New South Wales</b>          Registrar of Community Housing          Locked Bag 4001          ASHFIELD BC 1800          Phone: 1800 330 940          Fax: (02) 8741 2522  <a href="mailto:registrar@facns.gov.au">Email: registrar@facns.gov.au</a></p>
<p><b>Northern Territory</b>          Department of Housing and Community          Development          Registrar of Community Housing          GPO Box 4621          DARWIN NT  <a href="mailto:nrsch.dhcd@nt.gov.au">Email: nrsch.dhcd@nt.gov.au</a></p>	<p><b>Queensland</b>          Regulatory Services          Level 19          41 George Street          BRISBANE QLD 4000          Phone: (07) 3008 3450          Email: <a href="mailto:NRS-Housing-Registrar-QLD@hpw.qld.gov.au">NRS-Housing-Registrar-QLD@hpw.qld.gov.au</a></p>
<p><b>South Australia</b>          Office of Housing Regulation          GPO Box 1669          Adelaide SA 5001          Phone: (08) 7424 7206  <a href="mailto:OHRcommunityhousing@sa.gov.au">Email: OHRcommunityhousing@sa.gov.au</a></p>	<p><b>Tasmania</b>          Tasmania has an agreement whereby New South Wales will investigate complaints about the compliance of registered community housing providers with community housing legislation. Please contact New South Wales if you require assistance.</p>