

# Internal Review and External Appeals

## Frequently asked questions

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This FAQ sheet presents questions and answers for community housing providers and registration applicants about the internal review process and external appeals.

### 1. What is an internal review?

An internal review may be initiated by a registered community housing provider or registration applicant that is dissatisfied with a regulatory decision made by its primary Registrar. An internal review considers how the original decision was reached and what it was based on, including whether:

- there was sufficient information to make a determination;
- the National Law and guidelines were taken into account;
- sufficient analysis of the information was undertaken;
- the principles of procedural fairness were followed;
- the decision was reasonable;
- adequate reasons were provided for the decision.

### 2. When can an internal review be requested?

A registered provider or registration applicant can request an internal review if it disagrees with a decision made by the primary Registrar. Decisions that will be reviewed are those that, according to the Community Housing Providers National Law, can be appealed to an external appeal tribunal. These are original decisions to:

- refuse an application for registration or for the variation of a registration;
- impose or revoke any additional standard condition of registration;
- issue binding instructions;
- vary the category of registration;
- cancel registration;

- refuse an application made by or on behalf of the entity for cancellation;
- appoint a statutory manager.

Registrars also have discretion to conduct internal reviews of some other decisions including:

- Imposing 'additional requirements' within a final 'Determination of Application for Registration';
- The final 'Compliance determination' within an assessment of compliance with the National Law and Regulatory Code
- Issuing a 'Notice of non-compliance'.

If providers have concerns about the above decisions they are encouraged to contact their primary Registrar and, depending on the circumstances, the Registrar (or delegate) may conduct an internal review.

### 3. Is there a time limit for requesting an internal review?

A request for an internal review must be made to the primary Registrar within the 'relevant appeal period' following receipt of the original decision. This is 14 calendar days or any longer period which applies in the primary Registrar's jurisdiction.

The 14 day period may also be extended if a longer period is allowed under relevant legislation about administrative decisions made in the primary Registrar's particular State or Territory.

### 4. How to request an internal review?

- A request for an internal review must be made in writing to the primary Registrar who made the original decision.
- The request must clearly explain which aspects of the decision the provider or applicant disagrees with and the reasons why.
- A request by a registered provider or registration applicant for further reasons or explanation about a decision is not a request for an internal review. For example, the provider or applicant may at first simply not fully understand the decision reached or the reasons originally given for it.

- Registered providers and registration applicants are given opportunity to respond to the primary Registrar during the process leading to a decision. For this reason internal reviews will only be undertaken when formally requested.

#### **5. What happens when an internal review is requested?**

- A request for an internal review is referred to the primary Registrar.
- The Registrar will confirm in writing that they have received the request and whether the primary Registrar or another Registrar will conduct the review.
- The review process will be delegated to an Analyst or Manager of the Registrar's office who has not previously dealt with the matter. This person maybe from another jurisdiction that is participating in the National Regulatory System for Community Housing (NRSCH).
- The Analyst who undertook the original assessment and recommended the original decision will be notified of the review. If needed, they may help the reviewer access the information used to reach the original decision.
- The reviewer may find it necessary to seek additional information during the review process.
- Any new information will be considered as a part of the review process.

#### **6. What are the possible outcomes of an internal review?**

- The result of the review and recommended outcome will be documented in a report. The three possible outcomes are:
  - Affirm the original decision; or
  - Vary the original decision; or
  - Set aside the original decision and make a decision in substitution for the original decision.
- The registered provider or registration applicant will be notified in writing of the internal review outcome, including 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 primary Registrar.

- Registrars aim to complete an internal review within six weeks of receiving the request for review. This time may vary from case to case.

#### **7. When can an external appeal be lodged?**

- If the registered provider or registration applicant is not satisfied with the outcome of the internal review it can appeal to the relevant Appeal Tribunal in the jurisdiction of its primary Registrar.
- Once the Registrar provides a written notice of a decision which may be appealed under the National Law, the registered provider or registration applicant has 14 days to appeal to the relevant Appeals Tribunal (or any longer period which applies in the relevant jurisdiction).

Information about Appeals Tribunals in each jurisdiction participating in the NRSCH is available on the NRSCH website at [NRSCH - Appeals Tribunal](#)