



Tenant Complaints and Appeals – Information for Volunteer Member Tenant Managed Organisations

This fact sheet provides guidance to volunteer member tenant managed organisations (VMTMOs) in relation to tenant complaints, housing disputes and appeals against decisions made by the VMTMO.

What is a complaint?

A complaint is an expression of dissatisfaction with any action, decision or service provided by a VMTMO.

How are tenant complaints managed?

It is a requirement of the National Regulatory System for Community Housing (NRSCH) that VMTMOs must have a mechanism in place for dealing with tenant complaints, as well as providing information and guidance on how to raise complaints with them.

Complaints by tenants are handled through each individual VMTMO's internal complaints policies and procedures.

What is the Housing Registrar's role in relation to complaints?

The role of the Housing Registrar is to monitor VMTMO's compliance with the *Community Housing Providers National Law*. The Housing Registrar has responsibility to investigate complaints of a systemic nature i.e. those that threaten the ongoing viability and compliance of a VMTMO; those instances where a complainant believes the VMTMO has not dealt with the complaint in a fair and reasonable manner, or in accordance with the VMTMO's policies.

In South Australia systemic complaints should be referred to the Office of Housing Regulation (OHR).

The OHR does not have the power to resolve individual tenancy disputes, nor rent disputes, minor maintenance disputes or internal personality conflicts.

What is an appeal?

An appeal is a request by a tenant to have a decision made by the VMTMO reviewed. An appeal involves a review to see if an outcome can or should be changed, in full or in part.

The appeal will address the merits of the issue and examine what the outcome should be.

It is a requirement of the National Regulatory System for Community Housing (NRSCH) that VMTMOs must have a mechanism in place for dealing with tenant appeals, as well as providing information and guidance on how to appeal VMTMO decisions.

How do appeals differ from complaints?

An appeal is different to a complaint made by a tenant to the VMTMO. A complaint does not result in a review of a decision through a VMTMO's internal appeals process. Complaints are handled through each VMTMO's complaints policies and procedures.

Each VMTMO has its own process in place for managing tenant appeals, including the required timeframes.

What can be appealed via a VMTMO's internal appeals process?

Schedule 2 – Internal disputes of the [Community Housing Providers \(National Law\) \(South Australia\) Act 2013](#) (CHP Act) stipulates decisions that tenants can seek to appeal through the VMTMO.

Decisions that can be appealed include:

- A decision to terminate the tenant's membership of the VMTMO
- A decision to reject a tenant's application for membership of the VMTMO
- Decisions about allocation of a property or reallocation of a

property, including in relation to transfer or potential transfer to another property

- An assessment of financial or other circumstances (including eligibility for a benefit or concession)
- The calculation or imposition of any rent, levy, charge or subsidy (except those arising under the tenancy agreement/lease)
- A decision that relates to the state, condition, modification or improvement of premises
- A decision that affects the tenant's occupation or use of premises.

What cannot be appealed?

The CHP Act also stipulates VMTMO decisions that tenants do not have the right to appeal.

Decisions that cannot be appealed include:

- Matters that may be the subject of proceedings under, or is otherwise regulated by, the *Residential Tenancies Act 1995* (whether or not proceedings have been brought under that Act). This includes matters that are contained within the tenancy agreement/lease such as payment of rent.

Matters concerning the [Residential Tenancies Act 1995](#) (RTA) are heard by the South Australian Civil and Administrative Tribunal (SACAT). Tenants seeking to resolve RTA related matters must lodge a [housing dispute](#) directly with SACAT.

- Matters not relating to the occupation (or potential occupation) of community housing.

A tenant is unsatisfied with the VMTMO internal appeal outcome – what happens next?

If a tenant is not satisfied with the outcome of an internal appeal conducted by the VMTMO, they can lodge a further external appeal to SACAT.

The tenant must lodge their appeal with SACAT within 30 days of receiving notification of the internal appeal outcome from the VMTMO.

SACAT does not provide legal advice or advice on the chances of success of a particular approach. Prior to lodging an appeal with SACAT, it is recommended that tenants contact the [Tenant Information and Advisory Service \(TIAS\)](#) or the [Welfare Rights Centre/Housing Legal Clinic](#) for advice and support.

How does SACAT manage tenant appeals?

SACAT is the appeal tribunal for matters involving VMTMO decisions, as stipulated in Schedule 2 – Internal disputes of the CHP Act.

Decisions already reviewed through a VMTMO's internal appeals process (as listed in Schedule 2 of the CHP Act) will be heard by SACAT in its Administrative and Disciplinary Stream.

How does SACAT manage housing disputes?

Matters concerning the RTA will be heard by SACAT in its Housing and Civil stream. Tenants seeking to resolve RTA related matters will have lodged a housing dispute directly with SACAT.

When preparing for a SACAT hearing it is important to note which stream it is being heard under and to prepare accordingly. The SACAT fact sheet on [Providing documents for housing disputes](#) can assist in housing disputes that involve community housing tenants.

Can SACAT decisions be reviewed?

Section 70 of the [South Australian Civil and Administrative Tribunal Act 2013](#) (SACAT Act) provides for any party to a dispute to lodge an internal review of a decision made by SACAT. For RTA related matters this option is available.

A SACAT 'internal review' is conducted by more senior members within SACAT and it occurs within the Administrative and Disciplinary stream. The SACAT fact sheet on [Internal Reviews](#) provides further information.

Once SACAT has made a decision in relation to the internal review, the decision cannot be pursued further within SACAT. If a party remains unsatisfied with SACAT's internal review decision, they have a right of appeal to the Supreme Court of South Australia, as provided by Section 71 of the SACAT Act.

For SACAT decisions involving matters already reviewed through a VMTMO's internal appeals process and then appealed to SACAT, there is no right to an internal review within SACAT, nor appeal to the Supreme Court as stipulated in Schedule 2 (4) (9) of the CHP Act. In such matters, the decision made by SACAT is final.

Further information

Individual VMTMOs can provide information and guidance on how they manage tenant complaints and appeals.

Further general information about complaints and appeals by community housing tenants is available from the [CHCSA](#) website.

The [SACAT](#) website has useful information on its operations, including fact sheets on an [Introduction to SACAT](#), [Providing documents for housing disputes](#), and [Internal Reviews](#).

The SACAT publishes some decisions and written reasons for decisions on the [Australian Legal Information Institute \(Austlii\) website](#). The following decisions involving CHPs and the South Australian Housing Trust (SAHT) may be helpful:

[Cornerstone v Keyte](#)
[Junction & Women's Housing v Henschke](#)
[O'Malley v SAHT](#)

The [NRSCH](#) website has factsheets which further explain the roles of [tenants](#), [CHPs](#) and Housing Registrars in handling complaints.