

Factsheet

Complaint Handling
Information for Community Housing
Providers
February 2020

This factsheet sets out the types of complaints that may be addressed by the Registrar of Community Housing (the Registrar). It explains in broad terms how the Registrar will engage with a Community Housing Provider (CHP) registered under the NSW Local Scheme when a complaint is made about their compliance with the Regulatory Framework.

This information only applies to community housing operated by CHPs registered under the NSW Local Scheme. 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 the Registrar

The Registrar will deal with complaints and allegations relating to dissatisfaction with registered CHP's compliance with the Regulatory Framework that is underpinned by the National Law (NSW).

CHPs usually have additional responsibilities arising from other tenancy or relevant legislation. Should a complaint fall within this other legislation, then the 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 Registrar because they are dissatisfied with the outcome of a CHP's internal complaint or appeal policies and these are not matters the Registrar can investigate, the Registrar may assist the complainant with a referral to an appropriate body as outlined in the factsheet - *Complaint handling - Information for Tenants*.

What types of complaints will the Registrar address?

The Registrar deals with complaints about compliance with the Regulatory Framework. 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 should 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.

The Registrar has 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 Registrar has an interest in, then it may be appropriate for the Registrar to place their investigation on hold pending the outcome of the other body's investigation.

NSW Local Scheme Enforcement Guidelines

If it appears that a complaint demonstrates a potential breach of the regulatory framework, the Registrar will progress the complaint in a manner consistent with the principles outlined in the NSW Local Scheme Enforcement Guidelines.

These principles require the Registrar to 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 with the Regulatory Framework
- **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 the Registrar 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, the Registrar 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 Regulatory Framework.

Potential Outcomes

Subject to the outcome of their enquiries or investigations, and the severity of any identified breach, the Registrar 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 (i.e. a negotiated outcome)
- Issuing of a Notice of Non-Compliance
- Giving Binding Instructions
- Issuing a Notice of Intent to Cancel Registration
- Appointment of a Statutory Manager, or
- Cancellation of a CHP's registration.

Some decisions by the Registrar are appealable

A decision by the Registrar may be appealable by CHPs to the relevant review panel.

For example, CHPs may appeal the following enforcement decisions of the 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 conditions of the Regulatory Framework and the procedures of the relevant review panel or Appeal Tribunal.

Ongoing regulatory monitoring and compliance assessments

All CHPs registered under the NSW Local Scheme are subject to regular compliance assessments. Consequently, all complaints forwarded to the Registrar, 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 NSW provide financial support to the community housing sector and are a separate arm of government to the Registrar and its office. 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, the Registrar may need to liaise with, and/or refer to, particular funding bodies, any complaints that carry contractual implications. The Registrar will only disclose information in accordance with the information sharing provisions imposed under the Regulatory Framework that is underpinned by the principles of the Community Housing Providers (Adoption of National) Act 2012 (NSW).

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, the Registrar 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 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.

More Information

For additional information on the NSW Local Scheme and 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.

Please visit the Registrar's website at <https://www.rch.nsw.gov.au/nsw-local-scheme>.

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