

PURPOSE

This Policy defines the Company's approach to managing Appeals received from housing Applicants and tenants, and determining which decisions can be appealed.

POLICY REFERENCE	HS003.5
POLICY OWNER	General Manager, Resident Services
APPROVED BY	CEO
APPROVAL DATE	31 October 2022
REVIEW DATE	31 October 2025

APPEALS POLICY

1. IN AND OUT OF SCOPE

This Policy applies to all housing Applicants, Tenants and ex-Tenants of Evolve Housing Limited and its controlled entities, excluding Evolve Housing Vic Limited (referred to as the Company)

An Appeal is a disagreement by an Applicant or Tenant with a decision made by the Company that affects their application for housing, or their tenancy, and which the Applicant or Tenant has requested be reviewed. An Appeal is not a Complaint.

This Policy does not apply to Complaints which are covered by the Complaints Management Policy, or to Neighbour Disputes which are covered by Neighbour Disputes Policy.

2. POLICY STATEMENT

The Company is committed to the fair and effective management of Appeals.

This Policy outlines the approach of the Company in managing Appeals lodged by Applicants and Tenants. An Applicant or Tenant has the right to lodge an Appeal with Evolve Housing if they disagree with a decision Evolve Housing has made that the Applicant or Tenant believes may affect their application for housing, or their tenancy. Applicants and Tenants will not be disadvantaged by lodging an Appeal.

The objective of the Appeals process is to ensure that:

- There is a fair mechanism for decisions to be reviewed if those decisions cannot be considered by other bodies, such as the NSW Civil and Administrative Council Tribunal (NCAT);
- The correct decision has been made in each individual case under review.

The Company also considers the Appeals process as an opportunity to:

- Gain feedback from Tenants and Applicants;
- Demonstrate that Evolve is open to receiving the views of Tenants and Applicants; and
- Review and improve Evolve's policies and procedures where necessary.

2.1 Appealing a decision

Applicants and Tenants can appeal decisions made by the Company, including decisions about eligibility for community housing and offers of housing, decisions to decline an application or to transfer a Tenant, and decisions about eligibility for a rental subsidy. All Appeals must be lodged with the Company within 3 months of the Applicant or Tenant being notified by Evolve of the original decision.

Where possible, Applicants and Tenants who are not satisfied with the Company's decision are encouraged to initially speak to the staff member who advised them of the decision (or another staff member). If they are still not satisfied with the decision, there are two levels of Appeal available (assuming the matter is able to be appealed):

- The first level involves an internal review by the Company;
- The second level involves an independent review by the Housing Appeals Committee in NSW and/or the Housing Assistance and Tenancy Review Panel (HATRP) in ACT.

2.2 First Level Appeals

First level Appeals should be made in writing using the Evolve Housing Appeals form available on the Evolve Housing website or from any Evolve Housing office. Applicants and Tenants are encouraged to ask an Evolve Housing staff member for advice on whether their issue can be appealed, as not all issues are eligible to be reviewed (refer to list below). The staff member may also help the individual to complete the form and provide other assistance. The staff member who was involved in making the decision which is being appealed, will not be involved in providing this assistance. If Evolve receives a written Appeal from an Applicant or Tenant, Evolve will respond to that individual within two (2) business days, acknowledging receipt of the Appeal.

In most cases, first-level Appeals will be decided within twenty (20) working days from the date Evolve Housing receives an Applicant's or Tenant's written application for review. Exceptions to this timing may be where Evolve is waiting on further information from the Applicant or Tenant, or another person or organisation.

The internal review will be conducted by an Evolve Housing staff member who was not involved in making the original decision. The recommendations of that officer will then be considered by a more senior member of staff, who will make the actual decision on the first level appeal. The Applicant or Tenant making the appeal will be notified in writing of the decision of Evolve Housing resulting from the first level Appeal process.

2.3 Second Level Appeals

If an Applicant or Tenant believes the decision made by the Company in the first-level review is incorrect and they remain dissatisfied, they can ask the NSW Housing Appeals Committee (or the Housing Assistance and Tenancy Review Panel (HATRP) in ACT) to review the decision.

The NSW Housing Appeals Committee is an independent agency that can review appeals from individuals who are dissatisfied with decisions made by social housing providers such as Evolve Housing.

The Housing Assistance and Tenancy Review Panel (HATRP) is a panel of Senior Managers from Housing ACT who meet to hear requests for second level review of decisions.

Tenants in ACT also have the right to approach ACT Ombudsman about the decision made by Housing ACT by contacting:

ACT Ombudsman
GPO Box 442
Canberra ACT 2601
Telephone: 1300 362 072

2.4 Matters which can be Appealed

The Company's Applicants and Tenants are able to appeal decisions regarding various matters which include:

2.4.1 Social housing provider eligibility

- General eligibility for or removal from a waiting list or the NSW Housing Register
- Backdating of an eligibility date
- Eligibility of people classified as unsatisfactory or ineligible former residents

2.4.2. Housing entitlements

- Size and type of dwelling
- Modifications or special features of dwelling needed for medical reasons
- Location need entitlements

2.4.3. Priority housing eligibility

- Eligibility for priority housing
- Need for specific location or housing type

2.4.4 Succession of tenancy

- Eligibility to be granted succession of tenancy

2.4.5 Offers of Property

- Whether an offer is considered 'reasonable' (eg. type, location, size)
- Whether an Applicant's or Tenant's reason for not accepting an offer is reasonable

2.4.6 Transfers

- Eligibility for a transfer
- Category of transfer approval granted
- Eligibility for priority transfer
- Location approved for a transfer
- Relocation of a resident for management purposes
- Transfer of residents under relocation powers

2.4.7 Rental Subsidy assessment

- Calculation of, change to, or cancellation of rental subsidy
- Water charges related to subsidy

2.4.8 Modifications to a property

- Need for modifications for disability/medical reasons only (not maintenance or upgrade issues)

2.4.9 Offers of a property transfer

- Whether a ‘reasonable’ offer has been made and the offer counted for purposes of the offers policy
- Offers made to Tenants under relocation powers

2.5 Matters which cannot be appealed

There are a number of matters which Applicants and Tenants are not able to appeal. These matters include:

- Decisions that are not directly related to the Applicant or Tenant or the household;
- Matters that are the responsibility of other bodies or tribunals (such as repairs and maintenance which are the responsibility of NCAT (or the ACT Civil and Administrative Tribunal (ACAT));
- Evolve Housing policies;
- Internal administrative and funding matters of Evolve Housing;
- Complaints about the way Evolve Housing provides or has provided a service;
- Programs not related to the provision of a service;
- Decisions about providing more than the maximum service or benefit available under Evolve Housing policy.

3. DEFINITIONS

Appeal	a disagreement by a Tenant or Applicant with a decision made by Evolve Housing that affects their application for housing, or their tenancy, and which the Tenant or Applicant has requested be reviewed.
Complaint	an expression of dissatisfaction with the standard or type of service provided by Evolve Housing, which is made by an external person or organisation (Complainant), and where the Complainant had expected or is requesting a different outcome or result.
Neighbour Dispute	a dispute between two Evolve Housing Residents, which involves a possible breach by at least one Resident of their Residential Tenancy Agreement, and where an unsuccessful attempt has been made by the two parties to resolve the problem through either discussion or mediation
NSW Housing Register	a single list of approved applicants waiting for social housing. When a social housing provider approves an applicant for social housing, the provider places them on the NSW Housing Register. FACS Housing and community housing organisations use this register to offer housing when a suitable property becomes available.

Property	the Property or residential premises as described in the Residential Tenancy Agreement between Evolve Housing and the Tenant
Resident	a person who resides on a permanent basis in a Property which is owned or managed by Evolve Housing under a Residential Tenancy Agreement.
Residential Tenancy Agreement (or Tenancy Agreement)	a written agreement between Evolve Housing and a Tenant, which governs the terms on which that Tenant occupies the Property described in the Agreement.
Tenant	a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement. (A Tenant is also a Resident.)

RELATED RESOURCES

- Complaints Management Policy
- Neighbour Disputes Policy
- *Residential Tenancies Act 2010* (NSW)
- www.hac.nsw.gov.au
- <https://www.communityservices.act.gov.au/housing/housing-options/review-of-decision>

VERSION CONTROL

VERSION	Date Approved	Author	Key Changes
1.0	1/12/2013		Policy adopted
5.0	31/10/2022	Raylee Golding, GM GAL/ Co Sec	Application of policy extended to controlled entities (excluding Evolve Housing Vic Limited)