

## 107 Appeals Policy

### 1. Policy

This policy outlines how Link Housing will manage appeals from, or on behalf of applicants, tenants and stakeholders about decisions made by Link Housing.

### 2. Definition of Appeal

If a tenant, applicant or former tenant (customers) believes a decision made by Link Housing in relation to a tenancy, housing assistance or an application was unfair or incorrect, they have a right to appeal against the decision.

Customers will not be discriminated against or punished for lodging an appeal.

### 3. Principles

- Link Housing **welcomes** complaints and appeals
- Link Housing **promotes** its appeals policy to tenants and applicants
- The policy will be **easy** to understand and use
- The policy will be **fair**
- The person making the appeal can use an **advocate** or support person
- Link Housing aims to respond **quickly** to appeals
- Link Housing will keep the person making the appeal **informed** of progress
- Link Housing will give its decision in **writing**
- Link Housing will maintain a **record** of complaints and appeals
- Link Housing will use the outcomes of complaints and appeals when **reviewing policy** and practice
- Link Housing will inform the person making the appeal how to access the **independent appeals process**

### 4. Examples of Decisions that can be Appealed

Examples of decisions that can be appealed include:

- Eligibility for housing
- Removal from Housing Register
- The type and size of a property offered
- Allocation Priority
- Eligibility for transfer (re-housing)
- Removal from transfer list
- Private rental assistance
- Recognition as a tenant
- Suitability of offer
- Level of rental subsidy
- Permission to undertake modifications or alterations
- Permission to keep an animal
- Cancellation of a rental subsidy

- Modification to a property
- Former tenant charges
- Water charges

## 5. Matters that cannot be appealed using this policy

Examples of decisions that cannot be appealed include:

- Matters that have already been dealt with through the Appeals Policy
- Matters that are the responsibility of other tribunals and courts e.g. NCAT (NSW Consumer Administrative Tribunal)
- Matters that have been dealt with in other tribunals or courts
- Disputes between tenants
- Matters not directly related to the tenant
- Matters that are outside the time limit for appeals
- The policy itself

## 6. Time limits for appeals

### 3 Months

Generally the right to appeal is limited to 3 months from the date of the original decision.

This may be extended in special circumstances. Examples include:

- Where the tenant was not aware of the original decision
- Where the tenant was in hospital or otherwise unable to make an appeal

### 21 Calendar Days

If a tenant has their rent subsidy cancelled they only have 21 calendar days to make an appeal. If an appeal is not made within this time, they cannot lodge an appeal to either Link Housing or the Housing Appeals Committee.

## 7. Accelerated appeals

Link Housing will undertake appeals in relation to the following much faster than other appeals:

- Decisions relating to Section 149 and 145 of the Residential Tenancies Act 2010.
- Decisions relating to a Change of Circumstances after a lease review.
- Decisions relating to ending Private Rental Subsidy assistance.
- Decisions relating to Recognition as a Tenant.

Both first and second tier appeals relating to the above decisions are carried out using the accelerated appeal process.

A client can ask for an accelerated appeal by completing the relevant section of the Review of Decisions (First Tier Appeal) Application which includes consent for the matter to be referred to the Housing Appeals Committee as an accelerated appeal.

If the outcome of an accelerated first tier appeal is in the client's favour, the client will be advised of the decision in writing.

If the outcome is not in the client's favour, the client's file will be automatically referred directly to the Housing Appeals Committee as a second tier appeal. The client will be advised in writing of the

final outcome after the second tier independent review by the Housing Appeals Committee is completed.

## 8. When accelerated appeals are used

### **Accelerated appeals under Section 145 of the Residential Tenancies Act 2010**

Appeals under this section relate to a decision by Link Housing that a tenant is no longer eligible to continue living in a property managed by Link Housing.

### **Accelerated appeals under Section 149 of the Residential Tenancies Act 2010**

Appeals under this section relate to a decision by Link Housing to issue a Notice of Intent to Issue a Notice of Termination when it has offered alternative social housing to a tenant and the tenant has refused all reasonable offers of accommodation.

### **Accelerated appeals relating to a change of circumstances after lease review**

Where a tenant becomes ineligible to continue living in a property managed by Link Housing after a change in their household circumstances has been considered, the tenant may request a review of this decision.

### **Accelerated appeals relating to Recognition as a Tenant**

Link Housing may make a decision not to grant a provisional lease or recognition as a tenant following an assessment of a client's eligibility under a management transfer, tenant initiated transfer or where the original tenant dies or leaves the household as a result of being imprisoned or for health reasons.

If the client has not already provided consent for an accelerated appeal to occur, they will have 7 days to provide written consent. If the client does not provide written consent Link Housing will not conduct an accelerated appeal process. No other appeal to Link Housing or the Housing Appeals Committee will be considered.

### **Accelerated appeals relating to withdrawal of Private Rental Subsidy assistance**

Link Housing may make a decision to end a Private Rental Subsidy assistance either because it has conducted a review of the client's eligibility and determined that the client is no longer eligible or because the client has refused a reasonable offer of social housing and is no longer eligible to receive a Private Rental Subsidy assistance.

In the situation where the decision to withdraw a Private Rental Subsidy assistance due to the client's refusal of a reasonable offer of social housing and the offer of social housing was made by Link Housing, Link Housing will hold the property vacant until the accelerated appeal process is finalised.

If the client has not already provided consent for an accelerated appeal to occur, they have 7 days to provide written consent. If the client does not provide written consent, Link Housing will not conduct an accelerated appeal process and the property will be reallocated. No other appeal to Link Housing or the Housing Appeals Committee will be considered.

## 9. Time frames for consideration of appeals

Link Housing will acknowledge receipt of a formal appeal within 24 hours.

The time frame for dealing with an appeal is generally 21 days (three weeks). This may be

extended where time is required to gather information and/or speak to the parties involved. Link will advise if there the matter will take more than 21 days.

Priority is given to appeals of certain decisions as outlined below.

If an appeal is not resolved within the relevant timeframe, the client will be advised in writing of the reasons for the delay and the expected timeframe for completion.

### Timeframe for consideration of appeals

Appeal issue	Timeframe for consideration
Urgent situations regarding rental assistance	Within 48 hours
Urgent situations regarding eligibility for tenancy statements	Within 48 hours
Decisions to cancel the rent subsidy	Within 5 calendar days
Decisions to terminate Link Housing managed tenancies under Section 149 of the Residential Tenancies Act 2010, where alternative housing has been offered	Within 19 calendar days Note: Link Housing has 7 calendar days to complete the initial review. The remainder of the time is applicable where the file is transferred to the Housing Appeals Committee for review.
Eligibility for Private Rental Subsidy assistance following a review	Within 17 calendar days for an eligibility review Note: Link Housing has 2 calendar days to complete the initial review. Within 24 calendar days if an offer is rejected Note: Link Housing has 9 calendar days to complete the initial review.
Eligibility for Rent Choice Subsidy following a review	Within 14 calendar days for an eligibility review
Eligibility for Recognition as a Tenant to a Link Housing managed tenancy	Within 33 days

## Timeframe for consideration of appeals

Appeal issue	Timeframe for consideration
<p>This applies when a client:</p> <ul style="list-style-type: none"> <li>is not granted a provisional lease, and as a result is ineligible for Recognition as a Tenant, or</li> <li>is declined for Recognition as a Tenant</li> </ul>	<p>Note: Link Housing has 14 calendar days to complete the initial review (includes 7 days for the client to provide additional information or consent for an accelerated appeal).</p> <p>Housing Appeals Committee (HAC) has:</p> <ul style="list-style-type: none"> <li>14 calendar days to complete the review for provisional lease not granted.</li> <li>21 calendar days to complete the review for declined recognition as a tenant.</li> </ul> <p>Upon receipt of HAC recommendation, Link Housing has 1 calendar day to make final decision.</p>
<p>Rental bond</p> <p>This applies when Link Housing makes a decision relating a request to defer payments</p>	<p>Priority will be given to this type of appeal.</p>
<p>Eligibility decisions under Section 145 of the Residential Tenancies Act 2010 in a FACS managed property</p>	<p>Within 55 calendar days</p> <p>Note: Link Housing has 20 calendar days to complete the initial review.</p>
<p>Eligibility decisions relating to a change of circumstances following a lease review of a Link Housing managed property</p>	<p>Priority will be given to this type of appeal</p>
<p>NSW Civil and Administrative Tribunal action that is underway in respect of the client making the appeal</p>	<p>Priority will be given to this type of appeal</p>

## 10. Use of support person or advocate

Customers can have a support person or advocate assist them with their appeal.

There must be a signed consent form on file if the customer wants Link Housing to liaise direct with the support person or advocate.

## 11. Use of interpreters

Where the customer speaks English as a second language, Link Housing may, if requested, access the services of a support person or advocate or where this is not suitable or appropriate, the Translating and Interpreting Service (TIS).

## 12. Right to withdraw an appeal

A customer has the right to withdraw an appeal at any time.

## 13. Procedure

### Step 1 Internal (First Tier) Appeal

If a customer believes a decision by Link Housing was unfair or incorrect, they have the right to appeal.

- A customer should ask for a formal review of the original decision saying why they believe the decision was not fair. Where possible the request should be in writing. If it can't be done in writing, the customer can ask a staff member from Link Housing to write out what decision they want to appeal and why.
- The staff person who writes the appeal request for the customer must read it back to the customer and get them to sign it to agree it is correct.
- Link Housing will acknowledge the appeal within one working day and attach a copy of the Appeals Policy.
- The formal review will be undertaken by someone who was not involved in the original decision.
- The person reviewing the case may contact the customer and the person who made the original decision for more information.
- The response will generally be given in writing within 21 days (three weeks) clearly outlining if the decision has been upheld or not upheld and the reasons.
- If the person is still unhappy with the outcome they may request an independent review from the Housing Appeals Committee.

### 14. Step 2 Independent (Second Tier) Appeal

The Housing Appeals Committee is an independent agency that reviews decisions made by community housing providers.

The Housing Appeals Committee will review the first appeal and make recommendations to Link Housing. For further information regarding the Housing Appeals Committee call 1800 629 794 or visit the website: [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au)

## 15. Legislation & Regulatory Framework

- Residential Tenancies Act 2010
- National Community Housing Standards 3.1

## 16. Privacy and Confidentiality

Link Housing will keep applicants', tenants' and residents' information and feedback confidential, in line with privacy laws and standards.

## 17. Complaints and appeals

A tenant who is not happy with a decision made by Link Housing or who believes that Link Housing has not followed this policy can complain or appeal using the complaints and appeals policies that are available on the Link Housing website [www.linkhousing.org.au](http://www.linkhousing.org.au) or by phoning Link Housing on 9412 5111.

A tenant or applicant who is not happy with a decision made by Link Housing or who believes that Link Housing has not followed this policy can complain or appeal using the complaints and appeals policies.

## 18. Quality Assurance

This Policy will be formally reviewed every two years or when warranted where there is sufficient change in circumstances.