



Regulator of Social Housing

Appeals scheme

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1	1 October 2018	Adopted at point of establishment of RSH as separate legal entity	
2	24 May 2022	Reviewed and updated	Senior AD: Head of Legal and Company Secretary
3	1 April 2024	Reviewed and updated generally and in light of the coming into force of the Social Housing (Regulation) Act 2023	Senior Solicitor

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1. Introduction

The regulator must exercise its functions in a way that minimises interference and so far as is possible is proportionate, consistent, transparent and accountable. This appeals scheme provides an appeal route for certain decisions of the regulator that have no statutory right of appeal – see section 2 below.

In addition to the appeals scheme, the regulator has a separate complaints procedure. Under the complaints procedure, individuals, registered providers and others who are dissatisfied with the level of service we have provided can raise their concerns.

2. Which decisions can be appealed?

The appeals scheme may be used where we have given notice that we have made a decision to use or not use one of our legislative powers. The appeals scheme may not be used where we have given notice that we are considering using one of our powers but a decision has not been made.

The regulator acknowledges that Part 2 of the Housing and Regeneration Act 2008 (the Act) provides a statutory right of appeal to the High Court in some circumstances following the exercise of our powers. The appeals scheme may not be used where a statutory right of appeal exists within the Act. This scheme is not intended to provide a second, or alternative, right of appeal in addition to any statutory right of appeal.

A decision to use, or not use, the following powers may be appealed under this scheme. This is an exhaustive list:

Social Housing	<ul style="list-style-type: none">a direction that specified dwellings are no longer social housing (s76(1) of the Act)
Homes and Communities Agency (Homes England) and Greater London Authority (GLA)	<ul style="list-style-type: none">a direction to the Homes and Communities Agency not to give financial assistance to a Registered Provider under s100G of the Acta direction to the GLA not to give financial assistance to a Registered Provider under s333ZG Greater London Authority Act 1999
Accounts	<ul style="list-style-type: none">imposition of a requirement for an extraordinary audit (ss133, 134, 139 of the Act)
Monitoring	<ul style="list-style-type: none">a decision to require a Registered Provider to pay the costs of a survey (ss199-200 of the Act). This scheme does not allow an appeal against the granting of a warrant under s199B
Enforcement Powers	<ul style="list-style-type: none">imposition of a requirement on a Registered Provider to take action to recover a gift or payment (s122(6)(b) of the Act)a decision to appoint advisers to local authorities or to require local authorities to appoint advisers (s252A of the Act)a decision to appoint officers of registered providers (s269 of the Act)

The appeals scheme only applies to those powers which, if implemented by the regulator, impose a direct sanction or cost on a registered provider or individual.

For the avoidance of doubt the appeals scheme does not apply to the regulator's investigatory powers or those powers that are invoked as the result of a moratorium under the Act or the Housing Administration (England and Wales) Rules 2018 (SI 2018/719).

3. What are the grounds for appeal?

An organisation or person affected by the decision to be appealed can use the appeal scheme if:

- a. it believes that the decision taken by the regulator was wrong because it was irrational or illegal (for example, because the regulator failed to take into account relevant information made available to it, or made factual errors in reaching a decision, or relevant evidence in existence at the time of the decision has come to light subsequent to the decision);
- b. it believes that the decision was wrongly made in a procedural sense (for example, the regulator didn't follow due process or, didn't follow the regulator's own procedures, or the decision was made by someone without authority to make it).

4. How to appeal

To raise an appeal, you should complete and send the appeal form, to the regulator. In your submission, you must set out:

- a. the decision which is being appealed;
- b. the grounds for appeal, with reference to section 3 of this scheme; and
- c. evidence to support the appeal.

Appeals must be made within 10 working days of receipt of the notification of the decision made by the regulator. Appeal submissions may be made by email to: enquiries@rsh.gov.uk or by first class post to:

Appeals
The Board Secretary
Referrals and Regulatory Enquiries TeamRegulator of Social Housing
Level 2
7-8 Wellington Place
Leeds LS1 4AP

The existing decision of the regulator will stand pending the appeal and, in some circumstances, where in the opinion of the regulator it cannot wait, will be implemented.

5. Late appeals

Late appeals will not usually be considered by the regulator. It is not in the interests of transparent and efficient regulation for decision-making to be delayed by late appeals. However, the regulator recognises that very occasionally there may be legitimate reasons why an organisation may need more than 10 working days to make an appeal, e.g. due to the need for an appeal to have the governing body approval prior to submission.

In the event that an organisation wishes to make a late appeal, the relevant documentation as detailed above should be submitted along with a detailed explanation of why the regulator should consider the matter ‘out of time’. The decision on whether to accept the late appeal is entirely at the discretion of the regulator.

6. What happens next?

The regulator will acknowledge the receipt of an appeal submitted as set out above, and the appeal submission will be considered by the regulator within 15 working days of the appeal being received.

Appeal submissions will be considered by an appeal panel. The appeal panel will be comprised of 2 or more persons from the following list:

- any one or more board member(s),
- Chief Executive (mentioned for the sake of completeness, although also a board member),
- Deputy Chief Executive,
- Chief of Regulatory Engagement,
- Director of Finance and Corporate Services,
- Senior Assistant Director of Investigations and Enforcement,
- Director of Regulatory Engagement,
- Director of Strategy.

A change of office title will not prevent the officer being appointed to the appeal panel.

The composition of the appeal panel will depend on the circumstances and subject of the appeal and will be determined with the agreement of the Accounting Officer and the Chair of the Board. If considered appropriate, a chair of the appeal panel will be appointed with the agreement of the Accounting Officer and the Chair of the Board.

Each appeal panel will set its own terms of reference in respect of the appeal, and will cease to exist as a panel at the conclusion of the appeal proceedings.

If the appeal panel considers that advice from officers will assist its deliberations, the chair of the appeals panel will arrange for appropriate officers to provide such advice

The appeal is a written representation procedure. However, if the appeal panel considers the circumstances of the case dictate that the appeal hearing would benefit from it, the chair of the appeals panel may allow witnesses or oral evidence/advice at the appeal hearing.

If the chair of the appeals panel considers it necessary to adjourn the appeal to allow for a witness to attend or oral evidence/advice be given, the adjourned meeting must be held within 3 working days of the date of the adjourned meeting.

7. Appeal outcomes

The appeal panel will consider the decision made by the regulator and the grounds of appeal raised, which must align with the requirements of section 3.

The outcome of an appeal may be that:

- a. The grounds of appeal set out in section 3 have not been made out, and the original decision of the regulator is upheld and stands.
- b. The grounds of appeal set out in section 3 have been made out. In this situation the appeal panel may decide either that:
 - The original decision of the regulator is not upheld and a different decision should be substituted; or
 - The matter is referred back to the decision maker with directions to reconsider it (for example, where the panel concludes that the decision maker has not considered some relevant evidence, or there are reasonable grounds to believe that part of the process for making the decision was not properly followed and this may have materially affected the outcome). On reconsidering the decision in accordance with the appeal panel's directions, the original decision maker may choose to uphold its original decision or make a different decision which shall be substituted for the original decision. The outcome of the decision maker's reconsideration of its original decision may not be appealed under this scheme.

The appeal decision will be formally recorded, with reasons. The decision with reasons will be reported back to the appellant in writing within 5 working days.

8. Servicing appeals

The regulator's appeals scheme will be serviced by the Secretary to the Board who will be responsible for meeting timescales, keeping records, providing notifications to all relevant parties, producing meeting papers and minutes, recording decisions and promulgating those decisions through the regulator's pages on Gov.uk where appropriate.

9. Ownership, interpretation and review of the scheme

The appeals scheme is the responsibility of the Senior Assistant Director: Head of Legal and Company Secretary who will provide guidance and explanation of the scheme where required, interpret the rules where necessary, and keep the operation of the scheme under review, making proposals for amendment to the Board as necessary.

The Board may amend the scheme at any time as it sees fit.



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RSH regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs.