



Regulator of
Social Housing

Appeals scheme

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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. The regulator therefore has an appeals scheme whereby certain decisions of the regulator can be subject to review. The purpose of this appeals scheme is to afford the opportunity to organisations affected by certain decisions made by the regulator to appeal those decisions.

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 are using one of our legislative powers but it may not be used where we have given notice that we are considering using one of our powers.

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. Our appeals scheme is not intended to substitute or undermine that right.

The matters which may be appealed under this scheme are:

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 and Greater London Authority (GLA)	<ul style="list-style-type: none">• s92J of the Act decisions to make recommendations to the Homes and Communities Agency about the exercise of its functions• a direction to the GLA not to give financial assistance to a Registered Provider under s333ZG Greater London Authority Act 1999
Registration and Fees	<ul style="list-style-type: none">• not to register, to de-register or not to de-register a Registered Provider (ss 116, 118, 119 of the Act)• a decision not to register following restructuring (ss 161 and 163 of the Act)
Accounts	<ul style="list-style-type: none">• the issue of a requirement for an extraordinary audit (ss133, 134, 139 of the Act)
Monitoring	<ul style="list-style-type: none">• to arrange a survey and/or require a Registered Provider to pay the costs of a survey (ss199, 200 of the Act)• to charge for an inspection (s202 of the Act)

Accreditation	<ul style="list-style-type: none"> • the refusal or removal of accreditation (s217 of the Act)
Enforcement Powers	<ul style="list-style-type: none"> • to issue an enforcement notice (s220 of the Act) • to appoint advisers to local authorities (s252A of the Act) • suspension and removal of officers (s259, s260 of the Act) • to appoint or remove Board members to Registered Providers (s266, 269 of the Act)
Rent	<ul style="list-style-type: none"> • a refusal to waive specific requirements of the Rent Standard for a period of time (Rent Standard 2015) • a refusal to refer a case to the Secretary of State for consent to issue a direction that the requirements of an alternative provision regulation as it relates to a private registered provider (PRP) be disapplied or modified (paragraph 15 Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 SI 2016/390) • a refusal to refer a case for consent to the Secretary of State for a rent exemption to rent reduction (s25 Welfare Reform and Work Act 2016) • a refusal to refer a case for consent to the Secretary of State for an exemption to the alternative provision regulations (Article 15 Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016) • a refusal to refer a case for consent to the Secretary of State for an exemption to rent setting regime (Paragraphs 6(1) and (4) of Schedule 2 Welfare Reform and Work Act 2016) • a refusal to issue a direction following consent of the Secretary of State to a financial viability exemption (s25 Welfare Reform and Work Act 2016)

With the exception of registration and deregistration, the appeals scheme only applies to those powers which, if implemented by the regulator, impose a direct sanction or cost on a registered provider.

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 affected by the decision can use the appeal scheme if:

- a) it believes that the decision taken by the regulator was wrong (for example, the regulator failed to take into account relevant information, or made factual errors in reaching a decision, or new evidence has come to light);
- b) it believes that the decision was wrongly made (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 write to or complete and send the appeal form to the regulator. In your submission, you must set out the decision which is being appealed and the reasons you believe the decision made by the regulator is wrong or wrongly made and provide information 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 Team
Regulator of Social Housing
1st Floor – Lateral
8 City Walk
Leeds LS11 9AT

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

The regulator recognises that from time to time 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 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 10 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 Board members, the Chief Executive, the Deputy Director Provider Engagement, Deputy Director Finance and Corporate Services and the Deputy Director Strategy and Performance.

The composition of the appeal panel will be determined by the Chief Executive and the Chair of the Board depending on the circumstances of the case.

Each appeal panel will set its own terms of reference in respect of the appeal, appoint a chair for the meeting of the appeal panel (if appropriate) and agree that its existence will cease at the conclusion of the appeal proceedings.

The appeal panel will ensure it has relevant advice to assist it in its deliberations from officers not involved in or having advised on the original decision.

This is a written representation procedure. However, if the appeal panel considers the circumstances of the case would benefit from it, the chair of the appeals panel may allow witnesses or oral evidence.

7. Appeal outcomes

The appeal process will consider the decision made by the regulator and a determination will be made on whether the decision of the regulator was one that could reasonably have been made.

The outcome of an appeal may be:

- a) to uphold the original decision (i.e. it was correctly made) and the grounds of appeal have not been made out (and therefore, the decision stands);
- b) that the original decision was unreasonable. In this situation, a different decision may be made by the appeal panel and substituted for the original decision. This will only be possible where, in the opinion of the appeal panel, the decision maker made a decision that was so unreasonable that no reasonable decision taker could have made it; or
- c) that the matter is referred back to the decision maker with directions to reconsider it (for example, where it concluded that the decision maker has not considered some of the evidence in coming to the decision, 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).

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 Secretary to the Board who will provide guidance and explanation of the scheme where required, give interpretation of the rules where necessary, and keep the operation of the scheme under review, making proposals for amendment to the Board as necessary.



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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.