

INDEPENDENT REVIEW HEARING POLICY & PROCEDURES

1 Introduction

- 1.1 This policy applies to Independent Review Hearings as part of the overall Cosmopolitan Housing Association (CHA) Complaints Policy.
- 1.2 This procedure is to be used where a complainant is appealing against the outcome of the Review Stage.
- 1.3 The purpose of this policy is to provide a procedure for requests for independent reviews to be dealt with fairly. This includes dealing with cases quickly and giving anyone appealing against a decision at Stage 2 the opportunity to present their case.

2 Notice

- 2.1 All customers should have been informed of their right to appeal when receiving their response at the previous stage of the Complaints process.
- 2.2 To request an Independent Review the customer should respond to the appointed named officer indicated in the Investigation response within 10 working days of receipt. This may be done either on the Independent Review Request form that will be supplied, or any other means that clearly indicate that an Independent Review is being requested, by telephone, in writing, via the Internet, or in person.
- 2.3 Upon receipt of an Independent Review request, the Association will endeavour to respond to the customer within 2 working days, acknowledging receipt of the request.

3 Type of review

- 3.1 When requesting a review, a tenant can request one of the following options for the hearing of their complaint at the third stage in the Association's Complaints Process:
 - A Complaints Review Panel Hearing as detailed in section 3.23 of the CHA Complaints Policy, or
 - An Independent Review undertaken by the Group Chief Executive and the Continuous Improvement Manager, which removes the formality of the Independent Review Panel Hearing process for those who do not feel comfortable either undertaking or attending a formal process/meeting

- 3.2 Where the review is being heard by the Panel at Stage 3, the complainant should be informed of their right to attend the hearing in order to present their case. This also includes a right to be accompanied by a friend or relative.

4 Timetable for Review

- 4.1 The Independent Review stage should be heard by either the Panel or the Review Team within 15 days of an independent review being requested.
- 4.2 The complainant is to be provided with a response outlining the outcome of the hearing, or independent review within 5 days of the hearing of the review having taken place.

5 Complainants Rights

- 5.1 The complainant has a right for their case to be treated in the strictest confidence, and Staff/Panel Members are expected to uphold this right.
- 5.2 The complainant has a right to attend the Panel Hearing, and to be accompanied by a friend or relative.
- 5.3 The complainant has a right to make representations to the Panel, or the Independent Review Team, to outline their case, and to bring new information and evidence related to the complaint to the attention of the Association.
- 5.4 The complainant has a right to be provided with a response outlining the outcome of the hearing, or independent review within 5 days of the review having taken place.

6 Complaints Review Panel Constitution

- 6.1 The Complaints Review Panel will consist of three people, and will include at least 1 member of the Association's Board (normally the Chair or their appointed nominee), a representative of the Tenants' Forum or the Tenants' Complaints Review Team, and a representative of the Association's Senior Management Team not responsible for the service area to which the complaint relates.
- 6.2 None of the Panel Members should have had any previous involvement in the complaint being reviewed.
- 6.3 Panel members must disclose any possible conflict of interest (for example, if they have previously dealt with the tenant in any capacity) to the other members of the panel. If there is an actual conflict of interest, the panel member will step down and be replaced.
- 6.4 The panel will seek to achieve a consensus decision. Where there is not possible, the decision will be by a majority vote if required.

7 Independent Review Team Constitution

- 7.1 The Independent Review Team will consist of the Group Chief Executive and the Continuous Improvement Manager.
- 7.2 The independent review will be completed with 15 working days of the independent review request being made.

8 Independent Review Procedure

- 8.1 At a Panel Hearing, a Complaints Officer will be responsible for introducing the complaint, providing a summary of the complaint to date and highlighting the main issues for consideration by the panel.
- 8.2 The officers who have been responsible and involved in the investigation stage will be asked to attend the hearing so that they may present full details to the Panel of the investigations undertaken.
- 8.3 The complainant should be provided with a copy of the information that is being presented to the Panel, or reviewed by the Independent Review Team at least 5 days in advance of the hearing taking place to allow the complainant to prepare or review the complaint file.
- 8.4 The Complainant will be asked to provide any additional written information that they would like to be presented to the Panel, or considered by the Independent Review Team 48 hours in advance wherever this is possible, although flexibility will be afforded to the complainant in the interests of achieving an amicable resolution to the complaint.
- 8.5 The hearing will not be conducted like a court hearing and formal rules of evidence will not apply. The appeal panel will use the Civil Standard of proof (the balance of probabilities or “more likely than not”).
- 8.6 In reaching its decision, the Panel, or Independent Review Team must establish which facts are not in dispute and resolve those facts which are in dispute. When this has been done, the Panel or Independent Review Team will apply those facts to the case to make its decision.
- 8.7 In reaching its decision the Panel, or the Independent Review Team will assess if:
 - **The policy and procedures have been followed correctly or if there has been a service shortfall**
 - **The investigation has been conducted thoroughly**
 - **The customer has been treated fairly**
 - **The Association’s response was reasonable and the remedy offered adequate**
 - **A final agreement with the customer can be reached**

9 Decision

- 9.1 The Panel can, if it considers appropriate, adjourn the hearing. It may do so if, for example, new evidence has been presented at the hearing which needs further investigation or if the tenant presents convincing medical evidence that he/she is unfit to attend the hearing. The rearranged hearing should take place as soon as possible.
- 9.2 The decision of the Panel or Independent Review Team will be communicated in writing to the complainant within 5 days.
- 9.3 Following a Panel hearing, or Independent Review, the outcome of the hearing/review must include reference to the complainants' right to refer the complaint to the Housing Ombudsman Service.