

Eastcoast Housing
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Email: housing@eha.org.au

COMPLAINTS HANDLING

Statement of Policy

At Eastcoast Housing we believe everyone has the right to complain about our service and be given information about our complaints procedures.

The staff and management will:

- Provide accurate information on the services we offer and our policies
- Assist in the process of seeking redress if you have a problem and provide you with the necessary information about how to complain
- Treat you with dignity and respect
- Offer private and confidential interviews
- Provide information about who to go to if you are not happy with the resolution offered by Eastcoast Housing.

We believe that clients and consumers have the right to provide feedback and this will feed into our quality assurance programs of continuous improvement.

All written complaints to Eastcoast Housing from neighbours or body corporate representatives will be responded to in the most appropriate manner within the Residential Tenancies Act (1997). Concerns can be heard over the telephone but no actions will be taken unless a written statement is received.

NB: The only evidence acceptable before VCAT is in the form of an affidavit or presented in person.

HOUSING REGISTRAR

Part VIII of the Housing Act 1983 states that a registered housing agency must;

- establish a complaints policy
- take all reasonable steps to resolve a complaint within 30 days
- maintain a register of complaints

This Act also establishes a role for the Housing Registrar in the investigation of complaints by tenants about rental housing matters that are not resolved by the agency.

If a tenant feels that they have not received fair treatment or the matter has not been resolved accordingly, they can contact the Housing Registrar on (03) 96511402 or email:
housingregistrarcomplaints@dtf.vic.gov.au

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1. COMPLAINTS

All written complaints to Eastcoast Housing from neighbours or Owners Corporation representatives will be responded to in the most appropriate manner within the Residential Tenancies Act 1997.

Concerns can be heard over the telephone but no actions will be taken unless a written statement is received.

NB: The only evidence acceptable before VCAT is in the form of an affidavit or presented in person.

2. Aim, Principles and Context

2.1. Aims

This chapter aims to ensure Eastcoast Housing administers its complaints policy fairly and consistently for all parties involved.

The policy and procedures of this chapter apply to all tenants of Eastcoast Housing, as well as applicants and former applicants, and neighbours. Note that no member of the public shall be prohibited from lodging a complaint about a service provided by Eastcoast Housing.

These procedures should be read in association with relevant policy documents and, where appropriate, referral should be made to other Eastcoast Housing chapters and documents to ensure that procedures are being administered correctly.

This guide also aims to provide a clear framework for workers, tenants, neighbours, property owners and real estate agents with relation to the resolution of complaints that may be made about tenants in Community Housing.

2.2. Principles

Community Housing tenants have the right to live independently in the broader community. Community Housing tenants have the same rights as a tenant in any other rental property.

Eastcoast Housing will promote to tenants and their support workers their rights and responsibilities under the Residential Tenancies Act (1997).

Community Housing tenants have the right to expect that their privacy will be protected while living in Community Housing, and that such privacy will only be breached in instances where a legal request is made through the appropriate channels .

Neighbours of Community Housing tenants have a right to expect that the quiet and peaceful enjoyment of their home will be maintained as far as the landlord is responsible under s.244 & RTA (1997).

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Complainants have a right to expect that complaints will be handled confidentially.

Eastcoast Housing will respond swiftly and appropriately to complaints about its tenants which have been received in writing.

Eastcoast Housing will encourage open communication with neighbours and body corporate agencies.

An Eastcoast Housing representative will attend Body Corporate meetings where requested and if provided with proxy authorization to do so by Department of Health & Human Services.

2.3. Context

Properties managed by Eastcoast Housing are frequently in areas of high property value affected by gentrification. Some owners/landlords believe the myth that their property value decreases as a result of the Office of Housing purchasing property near them. While there is expression of support for public and community housing there is opposition to such developments occurring within their own neighbourhoods.

As a landlord, Eastcoast Housing must comply with the Residential Tenancies Act (1997). The process of resolution of neighbourhood complaints through the Victorian Civil and Administrative Tribunal (VCAT) is slow and requires that specific evidence be produced. Police or neighbour evidence required by VCAT is either through;

- Attendance at VCAT hearings (can be through subpoena if necessary)
- Affidavit (statement sworn at police station, clerk of courts or solicitors office)

NB: Owners corporation rules are difficult to enforce as they may undermine tenant's rights and may therefore be invalid.

3. Defining a Complaint

A complaint is defined as a registered expression of dissatisfaction with any Eastcoast Housing service lodged by a complainant or via a complainant's representative either in writing (hard copy or electronic), by telephone, or in person. An appeal, on the other hand, concerns a decision relating to the application of an Eastcoast Housing policy.

A generalised expression of concern about a policy, procedure or service will not be considered to be a complaint, and will not be subject to the same handling requirements and protocols as a complaint.

For a matter to be considered a complaint, it must relate to a specific occurrence or episode (including non-delivery of a service) that has had an impact on the individual complainant, rather than being an expression of dissatisfaction with the effects of the application of a policy or

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procedure on a wider group of people. Complaints regarding disputes between tenants, or between tenants and private neighbours, will normally be handled under Eastcoast Housing's dispute resolution guidelines. Eastcoast will facilitate dispute resolution meetings between parties or make referral to such services.

A complaint resolution process may run in parallel with another process on a related matter, such as an appeal. Where a matter involves an allegation of criminal behaviour, or an alleged breach of a local government by-law or regulation, the matter should be referred to Victoria Police or a local government instrumentality.

On-going analysis of complaints data will provide useful information about key issues of concern to Eastcoast Housing clients, highlighting areas where policy and/or procedural changes could facilitate a reduction in the number of complaints over time.

As a principal, every effort should be made to resolve a complaint in-house at first, including complaints raised in relation to matters that could be considered under the Residential Tenancies Act (1997). These may include (but not limited to) transfers of tenancy, subletting and maintenance charges that are the tenant's responsibility. However, the client should be advised at the outset of other options through the RTA (including VCAT) that would take the place of Eastcoast Housing complaints processes.

Clients have the right to pursue other avenues of review if they are dissatisfied with Eastcoast Housing complaints process. For instance, they may approach the Ombudsman if aggrieved about an administrative decision, the Equal Opportunity Commission regarding potential instances of discrimination or harassment or the Privacy Commissioner for potential breaches of privacy.

NB: Eastcoast Housing informs complainants and potential complainants of their right to pursue external review options.

4. Procedure for Managing Complaints

4.1. Information to be given at sign up

As a matter of course when signing leases with new tenants the following information is provided:

- Tenants will be given a copy of information pertaining' to their rights and duties under RTA1997.
- Tenants will be informed of the process if they breach their lease agreement
- Tenants will sign a Privacy Statement
- Owners Corporation Regulations and EPA Regulations (if relevant).

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4.2. Providing Information

Information about the complaint process and complaint forms are available from the office at Shop 2/57 Lloyd Street, Moe, 3825. Potential complainants are advised to refer to the brochure "How to Make a Complaint" before lodging their complaint.

People experiencing difficulty lodging a complaint may be referred to external local agencies such as their local Public Housing Advocacy Program.

The complaints process operates at three levels. The first level involves an investigation of the complaint by the staff member receiving the complaint. If the complainant is not satisfied with the redress offered in the first instance, there may be a second level review by the Managing Director.

A complaint may be passed directly from the first level to the second level if it is determined by the receiving staff member that it is of sufficient complexity or seriousness to warrant an immediate second level review.

Where the complainant remains dissatisfied after a second level review, the complainant may request that the complaint be referred to the Complaints Sub-committee of the Board of Directors for a third level review.

The Board (after considering the advice of Managing Director and/or other staff as required) will sign off on all third level reviews conducted by them.

4.3. Upon receipt of a complaint

Any verbal complainants will always be asked to put their concerns in writing and offered assistance to do so and asked to send them to Eastcoast Housing where the Tenancy Worker will investigate the complaint.

Any third party who has contacted Eastcoast Housing on behalf of a complainant will be informed that the complaint will be given due consideration when it is received by the person, or when a release of information form from the complainant is provided to discuss the matter with the advocate.

If the person making the complaint feels that their safety has been threatened or compromised, or that other illegal activity is happening on the premises they will be informed that this is a police matter.

Complainants may nominate an advocate to act on their behalf. If they do so, the complainant is required to sign the complaint lodgment form, a statement agreeing to the release of information and any other relevant documentation, unless a physical, intellectual or psychological impairment prohibits them from doing so.

Complaints may be lodged at the office of Eastcoast Housing or addressed directly to the Complaints Sub-committee of the Board, PO Box 728, Moe, 3825.

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Complaints may also be referred to the Housing Registrar, Ombudsman, the Privacy Commissioner, the Minister, the Secretary or the Director of Housing.

Eastcoast Housing will handle all complaint documentation in accordance with statutory requirements under the Public Records Act and privacy legislation.

5. Privacy notification guidelines

Under the Information Privacy Act 2000 and the Health Records Act 2001, the collection of information regarding individuals is subject to clear requirements. Individuals have entitlements under these Acts. Entities collecting information have responsibilities under these Acts. One of these responsibilities is to inform individuals of the intended use or disclosure of their information.

Please note: Agency employees are permitted to view complaints information related to their role in the organisation and/or their caseload.

Staff are cautioned against inappropriate viewing or use of your information including complaint files.

Following is a checklist to ensure agency compliance with legislation and a suggested script to assist you in that process.

5.1. Checklist

Have you advised the complainant that:

- ✓ they have contacted Eastcoast Housing?
- ✓ they have the right to access the information collected about them?
 - access is through the FOI process.
- ✓ there is a purpose for the information collection?
 - to detail the issues involved in the complaint
 - to monitor the complaints resolution process and
 - to ensure the appropriate sharing of correct information to agency staff or other agencies involved in the complaints resolution process
- ✓ who the proposed recipients of the information collected will be in general terms?
 - professionals who are involved in the resolution of the complaint, ie. agency staff, members of the Police force or employees of another organisation.
- ✓ the consequences of not providing information?
 - incomplete information may mean that we cannot investigate the complaint or the resolution of the complaint may be affected.

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5.2. Suggested Scripts

a) Internal referrals

I have recorded your complaint. I plan to forward the information you have given me to the appropriate area (ie. Managing Director) for advice/action. Is this OK?

b) External referrals

I have recorded your complaint. In order to resolve your issues, I will need to forward some or all of the information you have given me to (select from list below)

- to Agency office/program for action/advice; and/or
- an employee/manager of another Agency concerned for investigation; and/or
- Victoria Police or another body

Will that be OK?

5.3. Text for letter

In order to resolve the matters raised by the complaint, relevant Eastcoast Housing workers may access and share the information you have provided. Furthermore, personal and/or health information that is relevant to the complaint that the agency already holds about you may also be used by Eastcoast Housing staff (but only to the extent this is necessary and only by those who are directly involved with the resolution of your complaint).

Eastcoast Housing will not disclose your personal or health information through other avenues unless authorised by you or as authorised by law.

NB: For further information read “Eastcoast Housing Practice Standards - Privacy”

6. Level One – Local Level Review Procedures

6.1. Registration of the Complaint

The receiving staff member must register complaints on the Complaints database and with the Managing Director within 24 hours. An initial assessment of the complaint is carried out by the receiving officer to determine if it contains allegations of sufficient complexity or seriousness to warrant an immediate second level review, discussion may take place with the Managing Director to make this determination.

The receiving staff member sends a letter to the complainant (or their advocate) to acknowledge receipt of the complaint within three working days of receipt of the complaint. This letter details the likely duration of the investigation into the complaint.

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A further update is sent to the complainant/advocate if the complaint is not resolved within a reasonable timeframe.

NB: 20 working days from the date of lodgment of the complaint would be considered a reasonable timeframe to investigate most complaints.

6.2. Preparing the File for Investigation

Update the complaints database and collate and place all relevant documentation (originals or copies, as appropriate) on to the relevant file prior to a complaint being investigated. If there is inadequate information on the file for a matter to be investigated, prepare a file note outlining the reasons for the delay in the investigation and the likely revised timeframe.

As mentioned above, the complainant should be notified in writing if the revised timeframe is likely to extend significantly beyond 20 working days from the date of lodgment of the complaint.

6.3. Determining the Complaint

Every effort should be made in the first instance to resolve a complaint through discussion and mediation between the parties in dispute. Emphasis should be placed on housing staff making direct contact with complainants to clarify the complaint and to explore avenues for immediate, informal resolution.

NB: Note that details about complaints resolved quickly and informally still need to be entered onto the complaints database, although a file need not be created in all instances.

The Managing Director has the delegation to make a decision on the complaint at the initial stage, including whether or not it should be passed on for an immediate second level review.

Where a decision is made that the matter falls outside the complaint lodgment guidelines and/or falls within a different jurisdiction (for example local government or Victoria Police), the staff member will write to the complainant advising that the matter does not fall within the complaint guidelines and advising also of alternative avenues of redress.

The staff member will ensure that all relevant details are entered onto the complaints database.

6.4. Extension of Investigation Period

As mentioned above, an extension to the normal 20 working day period for investigating a complaint may be necessary in certain instances where additional information is required or where parties to the complaint have to be interviewed. The complainant should be notified in writing of any revised timeframe.

6.5. Completion of Level One Investigation

Where the stage one investigation leads to a finding in favour of the complainant, send a decision letter to the complainant offering redress.

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If the complainant accepts the redress option that is offered, the complaints process is deemed to be complete, the database is updated and the complaint file is closed.

If the level one investigation does not uphold the complaint, or if the complainant rejects the proposal for resolving the complaint, send a letter to the complainant advising them that they may request that their complaint be reviewed by the Managing Director. If the complainant requests such a second level review, the complete file must be sent to the Managing Director.

7. Level Two Investigation

After receiving the relevant file, the Managing Director, or their delegate, checks to ensure all relevant information has been provided and the material supporting the level one decision is adequate, including details regarding the appropriate policy and procedures and the reason(s) for the decision. If the documentation is inadequate and the basis for the complaint does not appear to be justified, seek clarification from the staff member who handled the complaint at the first level. Policy and legal clarification may be requested from OOH or from Eastcoast Housing legal advisors.

The Managing Director makes contact with the complainant (or advocate as necessary) to discuss the complaint by telephone or arrange an interview if necessary with the Managing Director, or their delegate.

The purpose of the interview/contact is to:

- clarify the circumstances surrounding the events leading to the complaint;
- clarify the complainant's expectations regarding the available redress options; and
- explain any relevant policy or procedural issues to the complainant.

Following the interview/contact, the interviewing officer prepares a report with recommendations and places it on the file.

If it is determined that any new or additional information that is provided at the second level could have changed the outcome of the original complaint investigation, the Managing Director or their delegate makes a new determination regarding the complaint.

If, after investigation, it is found to be in favour of the complainant, send a letter to the complainant advising of the redress options that are being offered.

If the Managing Director or their delegate confirms the original level one decision not to uphold the complaint, send a letter to the complainant advising the reasons for confirming the original decision and informing the complainant of the option to seek a third level internal review by the Complaints sub-Committee of the Board of Directors.

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If the complaint is finalised at Level Two, update the file with all the relevant information attached, including copies of any letters sent to the complainant. Update the complaints database accordingly.

Enter a notation on the complaints database indicating the date the complaint file was closed.

NB: Depending on the circumstances or seriousness of a complaint, it may enter the complaints system at Level Two, bypassing the first level.

8. Level Three -Reassessments by the Complaints sub-Committee of the Board of Directors

If a complainant declines to accept any of the redress options offered following a Level Two review of their complaint, they have the right to ask for it to be reviewed by the Complaints sub-Committee of the Board of Directors (Level Three). A Level Three review should only commence if the relevant Managing Director confirms that all previous avenues of review have been exhausted.

A Level Three review determines if all relevant information has been provided, policies and procedures implemented correctly and the principles of natural justice followed. Additional information would not normally be sought from the complainant at this stage, as all relevant information should have been provided previously.

Following the Complaints sub-Committee of the Board of Directors review of the complaint, they consult with the Managing Director and advise of their recommendation. If the Complaints sub-Committee of the Board of Directors recommends upholding the complaint and the Managing Director agrees, the decision is conveyed to the complainant in writing.

If the review results in a decision by the Complaints sub-Committee of the Board of Directors to not uphold the complaint, a letter is sent to the complainant advising of external redress options such as the Ombudsman and the Equal Opportunity Commission.

The Complaints sub-Committee of the Board of Directors updates the complaints database to reflect their decision. At this point, the complaint file is closed.

9. Ministerial

Where a matter is the subject of both a complaint and a Ministerial, staff members will refer the matter to the Managing Director and seek guidance on responding appropriately. The Ministerial will reflect the fact that a complaint is under investigation (or has been resolved, if appropriate). It may be appropriate to provide an interim response e.g. 'the matter you raised is currently being investigated under Eastcoast Housing's complaints process. Eastcoast Housing will contact you further about the matter you have raised'.

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10. Establish Legitimacy for Action under RTA (1997)

Clearly establish what has occurred and how this constitutes a nuisance or disturbance of quiet and peaceful enjoyment. Typical examples are:

- excessive noise
- Harassment of neighbours.

These details are to be recorded in the Complaints Register spreadsheet.

10.1. Obtain Supporting Evidence

If it is a verbal complaint, encourage people to put it in writing, including:

- Specific incident
- Dates and Times
- If police attended (station, names of officers attending, time attended)
- Police reports are very useful evidence.

Ask for the neighbours address, assure them of privacy (see Privacy Notification Guidelines), send them a copy of the Eastcoast Housing Complaints Form.

10.2. Serving a Breach of Duty

Formal Breaches under the RTA1997 include:

- Nuisance
- Interference with Peace
- Damaged Premises
- Damaged Common Areas
- Unclean Premises
- Refusal to permit entry

NB: Formal "Notices of Breach" can only be served on tenants if the Residential Tenancies Act is breached, NOT Body Corporate rules.

10.3. Monitoring Breaches

Any complaints from co-tenants regarding each other are not covered by the Residential Tenancies Act 1997 and as such, Breaches of Duty cannot be applied. This complaint will be forwarded to the Eastcoast Housing Tenancy Worker to respond to, which may include referring the matter to the tenant's support worker or convening a dispute resolution meeting or referral to such a service.

Where requested, a meeting with tenants and worker may be arranged. Sufficient evidence that a breach has occurred must be received in writing to serve a breach notice to the tenant (copy to be provided to the tenants support worker if the tenant has one registered).

Monitor the outcome of this breach, ie: If same breach occurs within 14 days this can be pursued via VCAT, either a compliance order or Notice to Vacate based on breach of lease agreement.

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If breach does not occur within 14 days but does so after this period, option to send another breach notice and/or pursue via VCAT by way of a compliance order

NB: In line with Eastcoast Housing's philosophy, eviction is seen as a matter of last resort. However where a tenant consistently does not comply with a Breach Notice served, an eviction may be pursued through VCAT.

10.4. Action in the first instance

Issue official notice to tenant to remedy breach, outlining breach and giving 14 days to remedy.

A copy of this Breach is to go to the relevant support worker (as per previous consent). Discussion between support worker and Eastcoast Housing worker to seek resolution of the matter.

If tenant complies with the request on the breach then no further action (breach notice kept on file).

10.5. Action if same Behaviour repeated

If the breached behaviour is repeated within the fourteen day period specified via the breach notice, another breach cannot be served.

When the fourteen day remedy period expires an application to VCAT can then be made for a compliance order.

If the same breached behaviour is repeated after the fourteen day period, an application to VCAT can be made for a compliance order or a second breach of duty notice served.

If the same breached behaviour is repeated three times throughout the tenancy an application to VCAT for an Order for Possession can be submitted.

NB: Three breaches of duty notices, for same breached behaviour, sent via registered mail must be supplied as evidence.

11. Responding to Body Corporate Complaints

All complaints by Eastcoast Housing from neighbours or body corporate representatives will be responded to in the most appropriate manner, mindful of relevant legislation such as the Residential Tenancies Act (1997) and Body Corporate Regulations (1989).

Concerns can be heard over the telephone however, at times, limited action may be undertaken until a written statement is received.

NB: The only evidence acceptable before VCAT or in the case of a Body Corporate matter before the Magistrates Court is in the form of an affidavit or presented in person.

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11.1. Compensation Claims

Where the Body Corporate is seeking costs to be paid or compensation claims, the complaints policy applies. All complaints must be received in writing with documented "evidence" of the tenant's responsibility.

If the evidence is considered to be sufficient then the process is as follows:

- A breach notice is served to the tenant (copy to support worker)
- Pursue compensation from the tenant via VCAT application. This is a landlord responsibility, not the Body Corporate.

An internal decision can be made by an Eastcoast Housing worker with the approval of the Managing Director as to whether or not to pursue compensation from the tenant.

A consideration may be the extent of damages/costs involved and a decision whether the agency can cover the cost involved.

An internal decision will also need to be made with the approval of the Managing Director as to whether or not Eastcoast Housing can cover the costs involved up front, and later pursue compensation from the tenant depending upon the urgency of the claim.

If the evidence is considered to be insufficient then the process is as follows:

- Respond in writing to the Body Corporate to validate receipt of the complaint
- Inform the complainant that there is insufficient evidence to accept responsibility/and or costs for compensation being sought
- Outline evidence that would be required

Body Corporate may decide to take action against Eastcoast Housing as landlord if they believe that there was enough evidence provided and as such it is the responsibility of the Landlord to cover costs. If so, they will need to pursue this through the Magistrates Court (Body Corporate Regulations 1989)

NB: Agents/Body Corporates will be informed of action taken by Eastcoast Housing.

12. Complaints against Staff Members

Complaints against Eastcoast Housing staff members are handled in accordance with our Employment and/or Complaints policies as appropriate. Any allegations of rudeness or other unprofessional behaviour by a staff member will be investigated thoroughly, following the principles of natural justice to ensure that the staff member's interests are not prejudiced.

The Managing Director should investigate a complaint against a staff member and, if the complaint is substantiated, recommendations arising from the investigation should be forwarded

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to the Staffing sub-committee of the Board of Directors, who will decide what if any remedy should be offered to the complainant. If the complaint is against the Managing Director, the complaint is forwarded to the directors on the Staffing sub-committee of the Board who decides what, if any, action is appropriate or what remedy should be offered to the complainant. Unsubstantiated complaints against staff members need not be elevated. This protocol covers such complaints that may originate with the Ombudsman.

13. Advocate

The role of the Advocate (if applicable) when requested by the client is to:

- assist in lodging a complaint and present the complainant's case if required;
- act as an advocate for the complainant; and ensure the complainant is able to access the complaints process, particularly complainants with special needs such as those with poor literacy skills, those from non-English speaking backgrounds, and those with a disability.

If the complainant is dissatisfied by the redress offered at the third level, they will be advised of external redress options such as the Ombudsman, the Equal Opportunity Commission and the Privacy Commissioner.

Staff members may seek legal advice from external legal consultant to Eastcoast Housing if necessary to attempt to resolve a complaint at any level. The provision of such legal advice shall be at the discretion of the Managing Director.

If the provision of legal advice causes a delay in responding to the complainant, the complainant shall be advised in writing of the reasons for the delay and the likely new timeline.

14. Interpreters

If it is evident that the complainant's preferred language is other than English, arrangements will be made for an interpreter to assist the complainant as required (see VITS in Practice Standards Chapter).