

ACT Ombudsman

###### **ASSISTED REFERRALS OF COMPLAINTS TO HOUSING ACT**

may 2020

POLICY NO. 2 of 2020

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# Purpose

This policy outlines the circumstances when the ACT Ombudsman will consider facilitating the ***assisted referral*** of a complaint to Housing ACT, with the Office of the ACT Ombudsman (the Office) to be updated about the outcome of the complaint.

It has been agreed the ACT Ombudsman will transfer certain complaints to Housing ACT, rather than:

* finalising the complaint and encouraging the complainant to raise it directly with Housing ACT
* otherwise finalising the complaint, or
* investigating the complaint at that time.

# Background

The role of the ACT Ombudsman is to influence systemic improvements in public administration in the ACT, as well as providing assurance that ACT Government agencies within our jurisdiction act with fairness and integrity. We undertake this role through our traditional complaint handling activities, as well as our oversight of specific ACT Government programs (e.g. the Reportable Conduct Scheme).

Under our Service Agreement with the ACT Government, we are committed to liaising with agencies to help ensure they provide accessible and effective complaint handling processes to the public and monitoring their complaint handling mechanisms.

Where negotiated with relevant agencies, our Office utilises assisted referrals, with the consent of the complainant involved, either as part of a formal investigation, or as part of agreed administrative arrangements, which are designed to:

* ensure vulnerable complainants who contact our Office can be assisted in contacting the agency/line area best able to manage their complaint quickly and effectively
* help monitor the complaint handling processes of agencies for which we receive larger volumes, or increased numbers, of complaints
* reduce complaint volumes where possible—for the benefit of both our Office and the agency concerned
* facilitate timely identification of trends of concern from such complaint caseloads, which can be raised with the relevant agency in a proactive manner, potentially avoiding the need for formal investigatory action.

Complaints received from, or about clients of Housing ACT, have been identified as a cohort that would benefit from assisted referral arrangements given that:

* some clients are vulnerable for a number of reasons that limits their capacity to communicate effectively with Housing ACT
* while complaint levels have recently decreased, the highest number of complaints in 2018–19 were received about Housing ACT [[1]](#footnote-1).

**Note:**

* These arrangements are not intended to undermine Housing ACT’s complaints-handling processes or the ACT Ombudsman’s discretion to investigate a matter. The Office refers complaints when it considers Housing ACT is best placed to deal with the issue, so it is critical the arrangements work within existing complaints mechanisms. Consequently, these arrangements will be regularly monitored and reviewed to ensure they are meeting their intended outcomes, as discussed below.

# Managing complaints about Housing ACT

Matters that are considered to be **out of jurisdiction** of the ACT Ombudsman will be closed or referred to the relevant commissioner under the mandatory referral arrangements in place under s6B of the *Ombudsman Act 1989* (the Act).

Matters that are considered to be **in-jurisdiction** must be considered for investigation as per our Office’s normal arrangements, with all complaints to be assessed on their individual merits. That is, officers must decide whether it is appropriate to:

* investigate a complaint under s 9 of the Act
* decline to investigate a complaint under s 6 of the Act for a number of reasons including that the complainant has not yet complained to the relevant agency

Where the Office declines to investigate, a further option is to consider whether it would be **more appropriate** to refer the complaint directly to Housing ACT as an ‘assisted referral’. The circumstances under which such ‘assisted referrals’ would be considered are discussed below and could only occur with the explicit consent of the complainant.

The above complaints pathways are summarised in the diagram at **Attachment A**. Processes for
in-jurisdiction matters are also discussed below.

# When to make an assisted referral

Unless otherwise agreed with Housing ACT, assisted referrals will be limited to situations where:

* The complaint relates to the immediate **Safety, Wellbeing or Dignity** of a client.

Examples include:

* + homelessness or at immediate risk of homelessness
	+ financial hardship or current/imminent personal crisis[[2]](#footnote-2)
	+ vulnerability factors that limit the client’s capacity to communicate[[3]](#footnote-3)
	+ a request for urgent repairs or maintenance has been lodged, **or** a formal complaint has been made, but the complainant has indicated no response from Housing ACT **and** it appears that:
		- non-resolution of the issue may be a safety or health hazard
		- resolution would best be facilitated with involvement from Housing ACT head office, and/or a phone call to the ‘right’ person could address a ‘one-off’ issue
		- the complaint raises a practical day-to-day management issue that would be appropriately addressed in the first instance through Housing ACT’s usual complaint-handling processes.

**OR**

* A detainee from the Alexander Maconochie Centre (AMC) requires assistance to facilitate the process for housing related to an application for release on bail or parole **and** has been unable tofacilitate housing through ACT Corrective Services case management processes.

Circumstances which would add further weight to a decision to make an assisted referral include:

* There is an urgent need to resolve the issue.
* The complaint relates to a client’s ability to access Housing ACT’s complaints process. Examples include where the complainant is seeking:
	+ confirmation that a complaint has been received
	+ assistance to have their complaint considered and/or has raised concerns about reprisals[[4]](#footnote-4)
	+ an update on the status of their complaint
	+ access to documents held on their file

**Examples of where an assisted referral would be appropriate**

**Example 1**

Mrs S informs our Office she is living in community housing and has had brown water coming out of her taps and water systems for over a month. Housing ACT sent a repair person who stated the hot water system needed replacing. After several telephone attempts to obtain an update, Mrs S lodged a formal complaint. Almost two weeks later, Mrs S spoke to Housing ACT who explained a supervisor’s approval was required to fast-track the order of a replacement system and her immediate supervisor was unavailable for 2-3 weeks.

An assisted transfer can facilitate bringing this matter to the immediate attention of Housing ACT, so it can respond appropriately—for example, by obtaining approval from the next most appropriate supervisor to progress the replacement.

**Example 2**Ms P called our Office and was identified as vulnerable, homeless with children and without financial resources. She had fled a domestic violence situation two weeks prior and was in emergency accommodation that would not last beyond the next two nights. One of Miss P’s children found it difficult to cope with emergency arrangements and Miss P drove a considerable distance to Housing ACT for an appointment to register for housing.

Upon arrival, she was told the Housing ACT Officer had a conflicting meeting scheduled and she would need to come back at another time. She was willing to see another officer, however, Housing ACT did not offer this as a solution.

An assisted transfer can facilitate bringing this matter to the immediate attention of Housing ACT, so it can respond by obtaining an urgent appointment for Ms P with another Housing ACT officer and progress her issue.

# ACT Ombudsman pre-referral processes

When receiving a Housing ACT related in-jurisdiction complaint our Office will:

* consider further action (i.e. investigation) or close the complaint immediately or through an assisted referral to Housing ACT (under s 6) as appropriate
* ensure the complainant **gives consent** for the matter to be referred to Housing ACT
* record this consent in our system.

Where it is considered that an **assisted referral** to Housing ACT is appropriate, we will:

* check that consent to refer the complaint to Housing ACT was acquired\*
* email the complaint to Housing ACT using the template example at **Attachment B**
* close the relevant complaint in accordance with s 6 of the Act
* explain to the complainant they will be contacted by Housing ACT **within two working days** of the complaint being received
* invite the complainant to contact us again if their complaint is not acknowledged within two working days or if they are not satisfied with the agency’s response.

**\*Important:** Where this is not the case, a referral can only occur under current policy where a disclosure to Housing ACT is made under s 34 of the Ombudsman Act. This currently requires Senior Executive approval, and would need to be discussed with Housing ACT management ahead of referral. Please contact the Director, ACT Strategy and FOI if this is considered necessary.

# ACT Ombudsman post-referral processes

Where an assisted referral has taken place, our Office will:

* record the referral for reporting purposes
* where the complaint relates to the immediate **Safety, Wellbeing or Dignity** of a client, consider whether additional escalation of the complaint to the Executive Group manager, Housing ACT is warranted
* assess in terms of trends of concerns and proactive feedback to be provided to Housing ACT (see below)
* receive advice from Housing ACT regarding the outcome of the complaint in agreed timeframes (see below)
* follow up with Housing ACT where advice has not been received in these timeframes
* record the outcome of the complaint.

**Note:** while it is always at the discretion of the ACT Ombudsman to investigate a matter under s 9 of the Act, where a matter has been referred to Housing ACT under these arrangements, the policy intent is not to formally investigate unless:

* similar complaints are subsequently received by our Office and a developing trend indicates a possible systemic issue which has been discussed with Housing ACT
* Housing ACT takes no action in relation to the referral and/or what is considered to be insufficient action in relation to the complaint and the complainant seeks further assistance from our Office.

# Housing ACT processes

Where a complaint is received from the ACT Ombudsman as outlined above, Housing ACT, consistent with its internal complaint handling policy, will:

* acknowledge receipt of the complaint (replying to all) and contact the complainant ***within two working days*** of receipt
* report to the ACT Ombudsman on a quarterly basis on all complaint transfer outcomes, including timeliness, whether or not the complainant got the outcome they were seeking , or a similar/better outcome
* discuss progress and trends with the ACT Ombudsman at the regular liaison meeting (see below).

# Review and engagement activities

The ACT Ombudsman and Housing ACT have agreed to meet on a quarterly basis at working level to discuss:

* any outstanding referrals (list to be provided by the ACT Ombudsman ***two working days*** prior)
* how these arrangements are working and any impact on complaint numbers to either agency
* any ‘lessons learned’ and improvements that can be made to related processes by either agency, with the ACT Ombudsman to highlight any cases they would like to discuss in more detail together with any outstanding referrals
* any trends of concern identified by the ACT Ombudsman
* quarterly report figures/content related to Housing ACT.

#

# Attachment A—Summary of Housing ACT complaints pathways

**Complaint received about Housing ACT**

**Consider investigation and/or further action – see options below**

**Close complaint under s 6**

This could include complaints where:

* the issue has not yet been raised with Housing ACT and assisted referral criteria are not met
* the matter has already been referred to Housing ACT in the last 21 working days
* the complainant has commenced legal proceedings in relation to the matter
* further investigation is not warranted

**Assisted referral to Housing ACT with consent**

Complaint:

* relates to the immediate **Safety, Wellbeing or Dignity** of a client, or
* a detainee from the Alexander Maconochie Centre (AMC) requires assistance to facilitate the process for housing related to an application for release on bail or parole **and** has been unable to facilitate housing through ACTCS case management processes.

Particular consideration should be given where the complaint:

* requires urgent resolution
* relates to a client’s ability to access the usual channels of communication

**Consent to refer to be obtained**

**Investigate complaints under s 9**

This could include complaints:

* that have previously been raised with Housing ACT without the matter being addressed
* that raise issues of complexity or concern and are considered to warrant investigation
* in which a more systemic issue has been identified that is considered to warrant investigation

**Referral to HRC
under s 6B – refer and close matter**

This would include complaints relating to discrimination (e.g. different treatment on the basis of race, gender, disability, sexuality or religion).

# Attachment B—Template email

To: housing.customerservice@act.gov.au

Cc: andrew.quilkey@act.gov.au; john.shevlin@act.gov.au; ACT.Ombo@ombudsman.gov.au; CSDHousingACTESU@act.gov.au

Our ref: Housing ACT assisted referral – Our ref: 2020-XXXXXX

Dear [Name]

We have received a complaint from Mr/Ms XXXX (ID No: [If known]) regarding [insert complaint subject].

Mr/Ms X has raised concerns that [insert short summary of concerns]

Under the circumstances, the Office considers that Housing ACT is better placed to address these issues. As a result, we have obtained Mr/Ms X’s consent to refer this matter to Housing ACT on their behalf.

Please accept this email as notice that we have transferred responsibility for Mr/Ms X’s complaint to Housing ACT.

This complaint will be closed by the Office and **not** formally investigated at this stage. Consistent with the agreed assisted referral guidelines in place between our agencies you are, however, asked to:

* acknowledge receipt of the complaint (replying to all) and contact the complainant **within two working days**of receipt
* report to the ACT Ombudsman on a quarterly basis on all complaint transfer outcomes, including timeliness, whether or not the complainant got the outcome they were seeking , or a similar/better outcom**e**
* discuss progress with the complaint/the outcome with the ACT Ombudsman at the next scheduled meeting between our two agencies.

If you would like to discuss this notice, please contact [give Officer contact if desired].

Questions or feedback regarding the agreed assisted referral processes should be directed to Ms Cathy Milfull, Director, ACT Strategy and FOI, by email at cathy.milfull@ombudsman.gov.au

Kind regards

**ACT Ombudsman**
**Email:** X@ombudsman.gov.au
**Phone:** (02) 6276 3773

1. In 2018–19, the Office received 82 complaints about Housing ACT, an increase of 19 per cent compared to the previous financial year: ACT Ombudsman 2018-19 Annual Report. [↑](#footnote-ref-1)
2. For example, a mother and children escaping a family violence situation. [↑](#footnote-ref-2)
3. These include disability/illness, age, language etc. [↑](#footnote-ref-3)
4. For example, where a contracted housing provider may threaten to evict a client in retaliation for making a complaint. [↑](#footnote-ref-4)