



## **Appeals Procedure Leaflet**

### **Is this the right leaflet for me?**

This leaflet summarises the States Housing (Tribunal and Appeals) (Guernsey) Regulations 2005 as amended, and tells you how you can appeal against certain decisions taken by Housing or the Guernsey Housing Association (GHA). It is intended for guidance only and is not an authoritative and comprehensive account of the law.

In this leaflet the Housing Appeals Tribunal is referred to as 'the Tribunal'.

For a copy of the above Regulations, or for further advice on the appeals process, telephone the Clerk to the Housing Appeals Tribunal on 756533 or write to the Clerk at Edward T. Wheadon House, Le Truchot, St Peter Port, GY1 3WH.

You can get further advice on your right of appeal from the Citizens Advice Bureau on 242266.

### **Who will hear my appeal?**

Your appeal will be heard by the Housing Appeals Tribunal, an independent panel whose members are appointed by the States.

The Tribunal will only consider your appeal if you have first asked Housing or GHA to reconsider its decision. This is known as an internal review.

You will be informed of the outcome of the internal review by notice in writing from Housing or GHA. If you disagree with the outcome of the internal review you can then appeal to the Tribunal. (You must submit your appeal form within 28 days counting from the date you were given notice in writing from Housing or GHA). If you miss this deadline (or think that you will) you should contact the Clerk to the Tribunal immediately. The Tribunal may accept late submissions if there are good reasons why the deadline could not be met.

### **What can I appeal against?**

Generally speaking you can appeal against Housing or GHA decisions that relate to rent payments, rent rebates, tenancy reviews, allocations (in other words, the properties that Housing or GHA offers you or refuses to offer you) and applications for social housing – but this is not a complete list.

You will be told as part of the internal review process whether you have a right of appeal against a particular decision. If you are in any doubt, or if you want more information, contact the Clerk to the Tribunal.

### **How do I know if I've got a good case?**

You must think about the grounds for your appeal before you submit an appeal to the Housing Appeals Tribunal. It is not enough to argue that Housing or GHA's decision was not to your liking. You must have reason to believe that the decision fell into one or more of the following categories:

- It was **ultra vires** i.e. unlawful. Housing or GHA did not have the power in law to make the decision in the first place.
- It was **unreasonable in law**. The decision was perverse because in reaching it Housing or GHA ignored relevant information (or took into account irrelevant information)
- It was **based on a significant factual or procedural mistake**. The decision was flawed because Housing or GHA got an important fact wrong or followed a procedure incorrectly.
- It was taken in **bad faith**. Housing or GHA's decision was irrational, discriminatory, motivated by ill-will or dishonesty, or influenced by the fact that they disliked you personally.
- It was **disproportionate**. The decision was 'over the top' or lacked proportionality.

### **I've submitted my appeal. What happens next?**

The Clerk to the Tribunal will telephone you to discuss your appeal and tell you about the appeal hearing.

The hearing is when the Tribunal considers your case. As the person making the appeal you will be asked to attend the meeting and answer the Tribunal's questions or, alternatively, and only if all parties agree, you can submit a written statement to the Tribunal instead of attending in person. Housing or GHA will be asked to send a representative too. The Clerk may ask you to provide the Tribunal with additional information about your appeal before the hearing.

Note that the Tribunal can make a decision on an appeal even if one of the parties fails to appear. Housing or GHA will always send a representative, therefore if you fail to appear you may be at a disadvantage.

Once a date for the hearing has been agreed an announcement will be published at the Greffe. Hearings are usually held in public, but the Tribunal can order some or all of the hearing to be held in private if it thinks there is good reason to do so.

If you would prefer a private hearing you should indicate this on your appeal form. The Clerk to the Tribunal will contact you to discuss the reasons for your request before asking the Tribunal to decide.

You will be sent advance copies of all the documentation that the Tribunal will consider on the day of the hearing, including Housing or GHA's response to your appeal statement in which they give their reasons for the making the contentious decision.

### **Can I bring someone with me to the hearing?**

Yes. Hearings are intended to be simple and informal affairs, but you are allowed to bring a friend, relative, legal or political representative to assist you whether the hearing is held in public or in private.

### **Who pays legal costs?**

The Tribunal can direct either or both parties (that's the person making the appeal and/or Housing or GHA) to meet the cost of convening the Tribunal, although in practice it usually pays these costs itself. But you must pay for any expenses that you incur by seeking legal advice, appointing an advocate etc. The Legal Aid Service will not help you pay costs. And if you win the appeal the Tribunal cannot order Housing or GHA to pay your legal expenses.

### **What happens at a hearing?**

Your appeal will be considered by three members of the Panel sitting as a Tribunal.

The Chairman will introduce the Tribunal members and ask both sides (including your representative, if you have one) to swear an oath or affirmation. You will be told that it is an offence to give a false or misleading statement or information to the Tribunal.

The Tribunal will then consider the written evidence provided by both you and Housing or GHA. The Chairman will ask you about the grounds for your appeal. The Tribunal members will listen to what you (or your representative) say. Then the Tribunal will listen to what Housing or GHA says. The Tribunal may ask extra questions to help them better understand the position taken by both sides.

A hearing usually lasts between one and two hours. The Tribunal can stop proceedings and arrange to meet again at a later date if during the hearing significant new evidence is raised that needs more consideration, or if the Tribunal wants either side to produce further evidence in support of their argument.

After the Chairman has closed the hearing everyone will be asked to leave and the Tribunal will decide whether your appeal is to be upheld or dismissed.

### **The Tribunal's Decision**

If your appeal is **upheld** it means that the Tribunal have decided that Housing or GHA's decision was wrong. The Tribunal would then ask Housing or GHA to reconsider its decision in light of the Tribunal's findings.

If your appeal is **dismissed** it means that the Tribunal have decided that the Housing or GHA's decision was right and therefore stands.

**The Tribunal does not have the power to change Housing or GHA's decision, or its policies and regulations.**

### **How do I find out the result of my Housing Appeals Tribunal appeal?**

The Tribunal will write to you and Housing or GHA with its decision within a few days of the hearing. If you still have any questions after receiving the written decision you should contact the Clerk to the Tribunal. Both parties are entitled to ask the Tribunal to clarify their decision, but they must do so within one month. The Clerk to the Tribunal can give further advice on this process.

A summary of the appeal decision is also displayed at the Greffe. If the hearing was held in private then the summary is anonymised.

Regardless of whether the appeal was upheld or dismissed, Housing or GHA will write to you within 28 days to explain the effect of the Tribunal's decision.

### **Can I appeal against the Tribunal's decision?**

You can appeal to the Royal Court if you think the Tribunal has misinterpreted a point of law.

Before you decide to do this, however, you should speak to the Clerk to the Tribunal. If you remain uncertain as to what to do you should seek independent legal advice.

If an appeal progresses beyond the Tribunal hearing the Guernsey Legal Aid Service **may** be able to help you to get legal advice. You should talk to them (telephone 747530) before approaching an advocate.

If the matter proceeds to the Royal Court and you remain unhappy with the outcome you may be able to take your case to the Guernsey Court of Appeal.

It is also possible that Housing or GHA may appeal against the Tribunal's decision. You would be told if this was going to happen.

### **How can I find out more?**

For more information please contact the Clerk to the Housing Appeals Tribunal.

### **Useful telephone numbers**

Clerk to the Housing Appeals Tribunal - 756533  
Citizens Advice Bureau (CAB) - 242266