

Assisted Boarding Houses

Reviews of decisions made under the *Boarding Houses Act 2012*

Purpose of this Fact Sheet

The Department of Family and Community Services (FACS) is responsible for administering Part 4 of the *Boarding Houses Act 2012* (BH Act) and relevant provisions in the *Boarding Houses Regulation 2013* (BH Regulation) relating to assisted boarding houses (ABH).

The purpose of this Fact Sheet is to provide information on when a person can seek a review of a decision made under BH Act and BH Regulation and the process for conducting the review.

When can I seek a review of a decision about an ABH?

Section 87 of the BH Act provides that a person may seek a review of certain authorisation, approval and enforcement decisions made under the BH Act by the NSW Civil and Administrative Tribunal (NCAT). These include:

- a refusal to grant a boarding house authorisation or manager approval to the person
- the imposition or variation of a condition on a boarding house authorisation or manager approval held by the person (including a variation of a boarding house licence to appoint a substitute licensee)
- the suspension, cancellation or revocation of a boarding house authorisation or manager approval held by the person
- a declaration under section 39 of boarding premises for which the person is a relevant operator to be an assisted boarding house for the purposes of this Act
- a refusal to grant an exemption under section 40 to the person or in respect of premises for which the person is a relevant operator
- the imposition or variation of terms and conditions on an exemption granted, or the revocation of an exemption granted, under section 40 to the person or in respect of premises for which the person is a relevant operator
- the issuing or variation of a compliance notice.

Requirement to seek an internal review

Generally, a person unhappy with a decision under section 87 must first ask FACS to review the decision before going to NCAT. This is called an internal review. The person must write to FACS to request an internal review within 28 days of being told of the decision.

How can I apply for an internal review?

Applications for an internal review must be made in writing by way of letter, fax or email to FACS or to the officer identified in the notice of the decision.

What information must I provide when I request an internal review?

Applications for an internal review should outline the decision the person wants reviewed and the reasons they think the decision is wrong.

Applications for an internal review must also specify an address in Australia to which a notice detailing the outcome of the internal review may be sent.

Can I submit material to the internal reviewer?

Yes. An internal reviewer is required to consider any relevant material submitted by the applicant.

The applicant should submit any material they want considered no later than 7 days before the agreed date of notification of the review decision.

Can I present further material in person?

While additional material should be submitted in writing, a person who has applied for an internal review is encouraged to speak with the FACS officer conducting the internal review about why they are not happy with the decision and whether they intend to provide further material to support their case.

Who will conduct the internal review?

The internal review will be dealt with by a FACS officer who was not substantially involved in the making the original decision and is qualified to deal with the issues raised in the application.

How long will it take to complete the internal review?

The internal reviewer is required to notify the person of the outcome within 21 days after the application for the internal review is lodged, unless the applicant and FACS agree otherwise.

What is the role of the internal reviewer?

In conducting the internal review, the reviewer is to consider any relevant material submitted by the applicant. This includes any letters concerning the application for review to and from FACS, and all evidence relied upon by the original decision maker as well as any other relevant material.

What decisions can the internal reviewer make?

The internal reviewer can affirm the original decision, vary the original decision, or make a new decision.

Will I be told the reasons for the internal reviewer's decision?

Yes. A statement of reasons will be provided setting out the basis on which the reviewer has made their decision.

What rights to I have if I am unhappy with the outcome of the internal review?

You have the right to have the decision reviewed by NCAT by contacting the Tribunal on 9377-5711 or in writing to Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney, NSW, 2000. More information on how to seek a review by NCAT and its procedures can be found at www.ncat.nsw.gov.au.