



A Guide to Filing an Appeal

What can you appeal to the Real Estate Agents Disciplinary Tribunal?

If you are not satisfied with a decision of a Complaints Assessment Committee (the 'Committee') you can appeal that decision to the Real Estate Agents Disciplinary Tribunal (the 'Tribunal'). The decision of the Committee from which you can file an appeal may be one of the following:

- Decision to dismiss your complaint on the ground it alleges neither unsatisfactory conduct or misconduct (s79(2)(a) Real Estate Agents Act 2008 (the 'Act'))
- Decision not to pursue your complaint on the ground it discloses only an inconsequential matter or that the complaint is frivolous and vexatious (s79(2)(b) and (c) and s80(1)(b) of the Act)
- Decision not to take any action or no further action if the length of time elapsing between when the subject matter arose and when your complaint is made is such that an investigation is no longer practicable or desirable (s80(1)(a) of the Act)
- Decision that your complaint/allegation be considered by the Tribunal (s89(2)(a) of the Act)
- Decision that the licensee has engaged in unsatisfactory conduct (s89(2)(b) of the Act)
- Decision to take no further action with regard to your complaint (s89(2)(c) of the Act)

By lodging an appeal you are starting a formal judicial process.

Timeframe to appeal to the Tribunal

You must lodge with the Tribunal written notice of your appeal. You must lodge your appeal within 20 working days of the date on which you are notified of the Committee's decision.

Are there any fees to lodge an appeal?

There are no fees payable to lodge an appeal before the Tribunal.

Are there any other costs that you should be aware of?

If you engage a lawyer or other person to represent you, you will need to meet the costs of that representation. You will have to pay the administrative and travel costs you incur in respect of your appeal.

How to appeal?

To lodge an appeal with the Tribunal, you must complete and submit the 'Notice of Appeal' form to the Tribunal. If you wish to file this form by email, electronic signatures are required, along with electronic versions of any documents you might wish to rely on in respect of your appeal. Otherwise, sign a hard copy of the completed form and file with any related documents by courier, post or fax to:

The Real Estate Agents Disciplinary Tribunal
Private Bag 32-001
Panama Street
Wellington 6146

Ph: (04) 462 6660

Fax: (04) 462 6707

Email: tribunals@justice.govt.nz

Part 1: Appellant (person appealing the decision)

You must write your full legal name, clearly. State an address for service (this cannot be a PO Box number) and your contact telephone numbers. You must give written notice to the Tribunal if your address for service and or telephone number changes.

Ensure you tick the box to identify whether you are the licensee who was the subject of the original complaint, or the original complainant.

Part 2: Representation

You may choose to be represented by either a lawyer or another person. If you choose to be represented, you must complete Part 2: Representation in the application.

If you choose to be represented, all communication will be issued to your nominated person only.

Part 3: Other party (the 'other party' to the decision you are appealing)

You must state the full name of any other party to the appeal. Please ensure you tick the box identifying whether the other party is the licensee or complainant who was the subject of the original complaint.

Part 4: Decision

You must attach to your appeal form, a copy of the Committee's decision you are appealing.

Part 5: Appeal

You should provide a clear statement of the reason(s) why you are seeking the appeal (i.e. why you consider the Committee's decision to be wrong or unfair).

Part 6: Checklist

Before you submit your appeal form and to ensure your appeal is efficiently processed, please ensure you have satisfied each of the requirements in the checklist, at the end of the form.

What happens next?

Once your appeal is filed, you will receive an acknowledgement of your appeal within a few working days of the Tribunal receiving it.

A preliminary conference date will be set and all parties to the appeal will be notified. The purpose of this conference is to ensure all the parties will be prepared correctly for the hearing. Specifically, the conference will:

- confirm parties details and any legal representatives
- clarify the details of the appeal, particularly what is disputed
- confirm who may be giving evidence
- decide if any witnesses need to be summonsed
- enable the provision and exchange of relevant documents
- find out if interpreters or other assistance is required
- set the timetable for proceeding
- settle any other procedural matters.

To facilitate this, the licensee / complainant and any other party named in the notice of appeal must attend the preliminary conference, along with any legal representatives or advisers. If any party does not attend, the Tribunal may proceed with the conference regardless.

The preliminary conference will be held via teleconference, however it may on occasion be held in the region where the original complaint was filed.

How long will it take for the Tribunal to consider your appeal?

The Tribunal will aim to deal with your appeal as expeditiously as possible. However, the length of time it will take for the Tribunal to deal with your appeal will depend on the complexity of matters raised on appeal and will reflect the need to be fair to all parties.

Hearings

The hearing is a formal, judicial proceeding that is open to the public and is led by the Chairperson of the Tribunal. The Tribunal panel will consist of a Chairperson, and two other members. The purpose of the hearing is for the Tribunal to clarify and test the evidence and witness statements/reports. The focus of the hearing is an inquiry by the Tribunal who will use an inquisitorial (questioning) process.

All appeal hearings of the Tribunal must be held in public, though the Tribunal may decide to hold a hearing or part of a hearing in private if it is in the interests of a party or the public to do so.

Hearings will ordinarily be held in the location that is most convenient to the parties involved. The Tribunal will determine the location of a hearing on a case by case basis.

The Tribunal's decision

The Tribunal may confirm, modify, or reverse a decision of a Complaints Assessment Committee. Following the hearing, the Tribunal will normally reserve its decision. In most cases a written decision will be sent to the parties some time after the hearing.

Appealing the Tribunal's decision

A person who is affected by a decision of the Tribunal may appeal to the High Court against that decision.

Important Note

This pamphlet is only a guide. The Tribunal determines its own procedures. In some cases a procedure may be adopted that is different from what is outlined here.

Tribunal Contact Details



The Real Estate Agents Disciplinary Tribunal
Private Bag 32-001, Panama Street
Wellington 6146

Level 1, 86 Customhouse Quay, Wellington 6011

www.justice.govt.nz/tribunals

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