

TRANSITIONAL HOUSING ACCOMMODATION INDEPENDENT DISPUTE RESOLUTION SERVICE: FAQs

Background and Set-up

What is the Independent Dispute Resolution Service?

The Independent Dispute Resolution (IDR) Service is a service Transitional Housing (TH) Providers (Providers) and people in TH (Households) are able to access when an issue between them about Transitional Housing accommodation and a Housing Agreement remains unresolved after efforts have been made to sort it between themselves.

Who will provide the IDR Service and from what date?

The Independent Dispute Resolution Service (IDR Service) will be provided by Fairway Resolution Limited (Fair Way) beginning 1 December 2023.

Who will pay for the cost of the IDR Service?

Fair Way's costs will be met by Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) for the six months to 30 June 2024. Providers and Households will be responsible for meeting any costs associated with engaging with the IDR Service – noting that there will be no application fee.

What exactly will the IDR Service do?

Through offering expert mediation and adjudication, the IDR Service will help Providers and Households resolve issues that have arisen between them.

Will I be provided with more information about the IDR Service?

Yes you will. HUD is working with Fair Way to collate that information now, and will update these FAQs once it is available.

Scope of the IDR Service

Can the IDR Service deal with any matter?

No it cannot. The IDR Service can only be used to resolve issues that Providers and Households have with Transitional Housing accommodation. Of direct relevance is the Housing Agreement between the Provider and the Household. If you are lodging a complaint with the IDR Service you will be arguing that the other party has breached the Housing Agreement or that it contains an invalid housing rule (Rule of Stay).

A detailed description of the scope of the IDR Service is attached as Appendix 1 to these FAQs.

Is the validity of the Provider's Rules of Stay in scope?

Yes it is. Providers' Services Agreements with HUD contain clear constraints on the rules that Providers can put in place. Rules can be challenged by Households who consider them to fall outside of those parameters.

To be clear, this is the relevant section of Providers' Services Agreements:

"Programme and Site-specific Rules

12. You may have rules that a Household must comply with, provided they are set out in the Housing Agreement, are reasonable in the context of the goals of the Transitional Housing Programme and are necessary in the circumstances to:
 - a. keep the Household, the environment the Household lives in, neighbours and/or Your and staff members safe; or

- b. retain the use of any leased properties you are using as Properties.
13. Such rules may, for example, prohibit illegal drugs or smoking/vaping in and around the Property, or include the following, but only to the extent necessary to meet the requirements of clause A.7: 12 above:
- a. prohibitions or restrictions on the consumption of alcohol;
 - b. prohibitions or restrictions on the keeping of pets; and
 - c. restrictions or processes for the management of visitors to the Housing,
14. No rules may be inconsistent with this Agreement, the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993 or the Privacy Act 2020. “

Does the IDR Service need to be used to exit a Household early?

No, it does not.

Can a mediated outcome or adjudicated decision be legally enforced?

Both a mediated outcome and an adjudicated decision are contractually binding on you. If the other party to your dispute does not comply with the mediated solution or decision, you may wish to seek legal advice.

What if I do not agree with the adjudicated decision?

You should seek legal advice, and if you are a Provider notify your Relationship Manager at HUD.

What does a finding against me as a Provider mean for my Services Agreement with HUD?

A decision against a Provider by the IDR Service does not necessarily mean you have breached your HUD Services Agreement. Your HUD Relationship Manager will follow up with you after the IDR Service outcome and will discuss with you what needs to happen next to ensure you are performing to the standards agreed with HUD.

IDR Service's Processes

What experience/knowledge does Fair Way have regarding Transitional Housing?

HUD has provided Fair Way with information about how Transitional Housing works and will continue to do so through-out the first 6-month period to ensure it is well-equipped to understand and fairly manage issues.

How do I lodge a complaint with the IDR Service?

To escalate a complaint, you or the household can contact Fair Way through:

- Email housing@fairwayresolution.com
- Online [Webform](#)
- Freephone 0800 77 44 08

You can also visit their webpage [Transitional housing | Fair Way Resolution Limited](#)

Will the IDR Service help me lodge a complaint?

Yes, it will, if you need assistance. HUD does not expect that Providers will need this assistance, but Households may.

What will happen after I lodge a complaint with the IDR Service?

You will be contacted by a Fair Way representative who will talk to you about your issue, ensure that it is within scope and adequately described – and help you describe it, if you need help. Fair Way will then contact the other party to let them know a complaint has been lodged and speak to

them to hear their perspective. Fair Way will then facilitate you both coming together to reach a resolution.

Do I need a lawyer, and can I bring a support person to IDR Service sessions?

Lawyers cannot advocate on your behalf at an IDR Service session, but you are free to seek legal advice beforehand. Support people can attend sessions, and these people may have legal training.

Will meetings and discussions relating to mediation and or adjudication be held face-to-face?

The initial set-up provides for phone calls and video-call meetings. This will be re-evaluated when more information is available about how the IDR Service is being utilised.

Can I opt into mediation or adjudication only?

Generally speaking, no. If both parties agreed to skip the mediation stage that could perhaps be accommodated but Fair Way will need to be involved in this decision as well. Please remember that relationships are important, having an issue with an occupancy is a learning opportunity for everyone involved, and working through a mediation process together may help everyone.

How will the IDR Service deal with vexatious complaints?

The IDR Service has the ability to decline to consider or stop considering a complaint if it is satisfied that:

- a. the complaint has no reasonable prospect of success; or
- b. the complaint is frivolous or vexatious, or the complainant is not pursuing it in a reasonable way.

What kinds of submissions will be accepted?

Oral submissions and written submissions that you lodge or talk to can all form part of the resolution process. The aim here is to get all of the relevant information on the table for discussion – finely crafted written submissions that have no substance, will obviously have no weight. To address any imbalance in knowledge and skill, Fair Way is available to assist Households and advocacy organisations such as Community Law, the Citizens Advice Bureau and the like will also be able to provide advice.

How will privacy and confidentiality work through the mediation and adjudication processes?

What is said or submitted during the mediation phase will stay confidential between the Provider, the Household and Fair Way – with two exceptions:

- a. Fair Way will not maintain confidentiality if they have reason to believe that any person is in danger of physical harm, or property is in danger;
- b. HUD will receive a short description of the issue in dispute, the outcome and the Provider involved. HUD will not receive any personal information regarding a Household.

Reporting and Evaluation

Are Providers expected to report on complaints and use of the IDR Service?

No, although your HUD Relationship Manager will likely ask you about your experience of the IDR Service.

What information will HUD receive from Fair Way?

HUD will receive the following reporting on a monthly basis from Fair Way

- a. the number of complaints;
- b. the complaints the Service did not consider, and why;
- c. a brief description of each complaint, the Provider and address involved and its outcome;

- d. the current caseload, including how long unresolved cases have been open;
- e. the time taken to resolve complaints; and
- f. a profile of complaints that identifies the cause of the complaints and any Provider issues or trends.

Will lessons be learned from the initial set-up to inform future services?

Yes, they will. HUD intends to review the initial set up by the middle of 2024. Providers and advocacy organisations are encouraged to keep in touch with HUD and to share their perspectives after engagement with the IDR Service.

APPENDIX 1: Transitional Housing Independent Dispute Resolution Service – Scope

Purpose of Service

1. The purpose of the Transitional Housing Independent Dispute Resolution (IDR) Service is to provide a specialised resolution mechanism to address issues between Households and Providers where a Provider's internal complaints handling or dispute resolution process has not delivered a solution acceptable to both parties.

Complaints that can be considered

2. The IDR Service has the power to consider, mediate and/or decide complaints about a breach of a Housing Agreement. This power extends to determining whether a term of a Housing Agreement is valid (or not) when compared to Schedule 1 of the Provider's Services Agreement, as provided by HUD.

Preconditions to considering Complaints

3. To consider or continue considering a complaint, the IDR Service must be satisfied:
 - a. the complainant(s) is or was a party to a Housing Agreement;
 - b. the alleged action or inaction that forms the basis for the complaint occurred during the term of the Housing Agreement and not before 1 December 2023;
 - c. the complaint is about an alleged breach or an alleged invalid term of the Housing Agreement;
 - d. the Provider's dispute resolution process has been followed and the issue has remained unresolved, with no more than 15 Business Days passing between the conclusion of the Provider's complaint resolution process and the lodging of the complaint with the IDR Service (except at the IDR Service's discretion on evidence of an exceptional and genuine reason for the delay, such as serious illness, mindful of the usefulness of the outcomes available as part of the IDR Service as time passes); and
 - e. the complainant has not made the same complaint previously about the same matter (unless a new instance of the issue has occurred).

Complaints that cannot be considered

4. The IDR Service cannot consider a complaint that relates to a security deposit or a Housing Contribution.
5. The IDR Service can also decline to consider, or stop considering, a complaint if it is satisfied that:
 - a. the complaint has no reasonable prospect of success; or
 - b. the complaint is frivolous or vexatious, or the complainant is not pursuing it in a reasonable way.
6. The IDR Service cannot consider test cases. An instance of the issue needs to have arisen between the Household and the Provider.

Outcomes that can be provided for via mediation

7. The IDR Service will document any mediated resolution of the complaint.
8. Financial redress cannot be part of a mediated resolution.

Outcomes that can be provided for via adjudication

9. The IDR Service can:
 - a. determine whether a breach of a Housing Agreement has occurred;
 - b. determine whether a term of a Housing Agreement is valid (or not) when compared to the Provider's Services Agreement. This includes a Programme or site-specific rule that relates to the use of the accommodation;
 - c. order a Provider to apply a Programme or site-specific rule in a particular manner, or set the rule aside if it has been determined to be invalid;
 - d. order a party determined to be in breach of a Housing Agreement:
 - i. to do anything necessary to remedy the breach within a defined (but reasonable) time period;
 - ii. to do anything required by the relevant provision of the Housing Agreement;
 - iii. to stop doing anything which is resulting in a breach of the Housing Agreement;
 - e. order a Provider to reinstate the Household's occupancy if the same accommodation remains vacant and available for use;
 - f. order a Provider to use its best endeavours to urgently find suitable alternative Transitional Housing (or similar) accommodation for the Household in the event that an exit is determined to be a breach of the Housing Agreement;
 - g. order a Household to leave accommodation within a defined (but reasonable) time period if an exit is determined to be valid.
10. The IDR Service cannot:
 - a. provide for financial redress, notwithstanding that costs, loss or expenses may have been incurred by the complainant or the other party;
 - b. reinstate an occupancy unless the relevant accommodation remains vacant and available for use.

Decision-making criteria

11. During a mediation the Service must follow best practice mediation processes.
12. In making any decision, including whether to consider, or continue considering a complaint, the Service:
 - a. must be fair in all the circumstances;
 - b. must follow the rules of natural justice which includes ensuring both sides are given:
 - i. the opportunity to provide information, express their views, and to have that information and those views considered, before a decision is made;
 - ii. adequate notice of important steps and decisions; and
 - iii. the reasons for the decision in writing and within a reasonable time; and
 - c. must make a decision that is consistent with the law.
13. The Service is not bound by any legal rules of evidence when conducting a mediation or making a decision; and must be unbiased in respect of all matters before it.

Information Gathering and Sharing

14. The Service can consider any information provided and make inquiries of the relevant Household and Provider.
15. All information provided or gathered in relation to a dispute will be held confidentially, with the exception of Provider specific information that falls within paragraph 16 below.

Records

16. The Service must keep comprehensive records and statistics of complaints including:

- g. the number of complaints;
 - h. the complaints the Service did not consider, and why;
 - i. a brief description of each complaint, the Provider and address involved and its outcome;
 - j. the current caseload, including how long unresolved cases have been open;
 - k. the time taken to resolve complaints; and
 - l. a profile of complaints that identifies the cause of the complaints and any Provider issues or trends.
17. The Service will share the information in paragraph 16 with HUD on a monthly basis.