

Dispute Resolution Framework

This is the dispute resolution framework for homeowners who wish to dispute certain Auckland Council decisions relating to their property made under the Nominated Categorisation Approach (**Categorisation Approach**) and Voluntary Buy-Out Support Scheme (**Scheme**) for Auckland homes affected by the extreme weather events over Auckland Anniversary Weekend, and Cyclone Gabrielle 2023 (**severe weather events**).

1. Decisions covered by this dispute resolution framework

This framework applies to the following decisions:

- The categorisation of a property as category 1, 2C, 2P or 3 (**Categorisation Decision**).
- The reference valuation contained within the Council's offer to buy a property (**Valuation Decision**).
- The outcome of an application made under the "special circumstances" provision (**Special Circumstances Decision**).
- Decisions relating to insurance proceeds, including EQC proceeds or the outcome of a decision relating to the individual circumstance of an uninsured homeowner (**Insurance Decision**).

The dispute resolution process cannot be used to challenge the design or content of the Categorisation Approach or Voluntary Buy-out Support Scheme. It can only be used to seek review of one of the types of decision set out above in relation to a particular property under the Categorisation Approach or Scheme.

Applications for review of the above types of decision will be by way of application form, available online.

2. Categorisation decision

Internal review

If the homeowner(s) disputes a categorisation decision, they have three months from being notified of their property category within which to apply to the Council for a review, unless the homeowner opts into the category 3 buy-out process at an earlier stage.¹ The application must set out the basis on which the homeowner disputes the decision and should include any additional/ supporting information that they want the Council to consider.

The supporting information to the application may include an expert report(s) from a suitably qualified expert (for example, a geotechnical engineer). To ensure that such experts are properly informed about the basis for the categorisation decision, the homeowner should provide their expert(s) with all available documentation including the Council's decision and a copy of the Categorisation Approach (available online). The engagement of experts will be at each party's own cost unless stated otherwise in this document.

The Council will consider the application for review and supporting information and notify the homeowner whether it confirms or revises the Categorisation Decision.

¹ When a homeowner of a Category 3 home opts in to the buy-out process, they agree that they accept the categorisation of their home. From that point cannot seek to challenge the categorisation of their home, even if it is still within the three month period from receiving the initial categorisation.

If there is still a dispute following the Council’s consideration of the application, the homeowner and the Council may attempt to resolve the dispute by a “without prejudice” meeting between the respective experts or, if an expert is not engaged by the homeowner, between the parties. The parties must each meet their own expert’s fees for attending this meeting. Following the meeting, the Council will inform the homeowner whether it confirms or revises the categorisation decision.

Expert determination

If the “without prejudice” meeting does not resolve the dispute, the homeowner may apply to have a relevant issue (as referred to below) determined by an independent expert of their choosing from the Council’s approved panel of independent experts. The homeowner has one month from receiving confirmation of the Council’s position within which to apply to have the issue determined by an expert. The dispute will only go to determination where the Council and homeowner agree to do so and the issue is an appropriate one for determination (as set out below).

The determination will be by way of a desktop (“on the papers”) review of the Council’s and homeowner’s respective expert reports and may include a site visit where the expert considers this to be appropriate. The determination will be conclusive and binding on both the Council and the homeowner(s). The Council will pay the costs of the independent expert who makes the determination, but the parties must otherwise meet their own costs.

The issues that Council agrees to be appropriate for determination in relation to categorisation disputes are as follows:

1. Using the Council’s Categorisation Approach, does the property present, as a result of the severe weather events, an intolerable risk to life?
2. Can the property’s intolerable risk to life be mitigated with a property specific mitigation in a timely manner? If so, how?
3. Is the cost of mitigating the intolerable the risk to life presented by the property feasible?

The issue of whether a community level mitigation is feasible is not a matter that can be submitted for determination.

If the homeowner applies for determination of a dispute that involves more than one area of expertise, the Council will determine the order in which the issues are determined (for example jointly or sequentially). Homeowners will have the option whether or not to agree to a binding determination on these terms.

3. Valuation Dispute

Internal review

If the homeowner(s) disputes the reference valuation contained within their offer letter, they must apply for review within one month of receiving the offer letter. The homeowner must provide a valuation from a registered valuer for the market value of their property at 26 January 2023. The homeowner should provide this valuation at the same time as the homeowner applies for review of the valuation decision unless they are unable to for reasons outside their control.

The Council will consider the homeowner’s valuation report and consider whether to confirm or revise its reference valuation. As part of this process, the Council may also attempt to resolve the differences in valuation by a “without prejudice” meeting between the respective valuers. The parties must each meet their own expert’s fees for attending this meeting.

After it has considered the homeowner's valuation report, and after the meeting of valuers (if a meeting takes place) the Council will either confirm or revise the reference valuation and notify the homeowner of the result.

External review

If the homeowner still disputes the Council's valuation they have one month from receiving notice of the Council's decision confirming or revising the valuation to apply to have the valuation dispute determined by an independent valuer of their choosing from Council's panel of approved experts.

That determination will be by way of a desktop "on the papers" review of the Council's and homeowner's respective valuations and may include a site visit where the independent valuer considers appropriate. The determination will be conclusive and binding on both the Council and the homeowner(s). The Council will pay for the fees of the independent expert who makes the determination, but the parties must otherwise meet their own costs.

4. Review of decisions on applications for Special Circumstances to be considered/ decisions on the individual circumstances of uninsured persons / insurance proceeds

A homeowner who wants to seek a review of a special circumstances decision may make a request in writing that the Council review the decision. The homeowner has 25 working days from receiving the decision on special circumstances within which to seek a review. The Chief Executive will consider, then confirm or revise the special circumstances decision. The Chief Executive, at their discretion, may seek relevant advice to support their review. The decision of the Chief Executive on review of a special circumstances decision is final and not subject to further dispute resolution processes.

An uninsured homeowner who wishes to review a decision as to their individual circumstances (for the purposes of determining their homeowner contribution) may make a request in writing that the Council review this decision. The homeowner has 25 working days from receiving the offer letter within which to seek review. The Chief Executive will consider, then confirm or revise the individual circumstances decision. The Chief Executive, at their discretion, may seek relevant advice to support their review. The Chief Executive's decision on review is final and not subject to further dispute resolution process.

An insured homeowner who wishes to dispute a decision that the Council has made relating to the insurance proceeds (including EQC proceeds) that have been obtained by the homeowner for damage to the house may make a request in writing to review that decision. The homeowner has 25 working days from receiving the offer letter within which to seek review. The Chief Executive will consider, then confirm or revise the individual circumstances decision. The Chief Executive's decision on review is final and not subject to further dispute resolution process.