



# Housing Appeals Committee

## Overview of 2010/11



# From the Executive Chairperson



One of the challenges for an appeals body is to ensure that people know about their right to appeal and feel confident about using the service.

For this reason, we at the HAC place considerable emphasis on targeted community education through forums and presentations to advocacy and support agencies, tenant groups and housing conferences. We held another very successful Community Agencies Information Forum in Liverpool in late 2010 and plan a similar forum in Ashfield in late 2011.

We are very excited to have produced a series of videos which will be used to educate people about the role of the HAC and to help clients understand the experience of appealing and coming to a hearing with the Committee. Soon we will complete video subtitling in nine languages and distribute the videos widely to advocacy, support and housing agencies. These can be viewed on the HAC website.

An innovation during 2009/10 was to undertake a regional hearing for a cluster of appeals from the Hunter area, as an experiment in taking hearings out of Sydney. We aim to be flexible and ensure clients are afforded the best possible opportunity to be heard during the appeal process, whether by face to face interview, teleconference or even, on occasion, a home visit. We will be developing video conferencing as an option for non metropolitan appeals.



A scene from the video featuring (from left to right) Sudesh Kumaran, Yasmina Kovacevic, and myself.

## Thanks and congratulations

We are very fortunate to have highly skilled and committed Secretariat managers, Yasmina Kovacevic and Sudesh Kumaran, to lead the way in our communication with the community and frontline housing staff. They are very well respected in the sector and in constant demand for training, presentations, and policy and appeal management advice. I congratulate them on their Housing NSW Chief Executive's Award this year.

I would like to thank all those participating in the video production, in particular Lynn Houlahan, Blanch Lake, Ilan Vizel, Yasmina Kovacevic, Sudesh Kumaran and Shane Sturgiss (tenants advocate). The production company TVU, led by Doug Hawkins, is also to be congratulated on an excellent and cost effective production.



Back row from left: Ilan Vizel, Blanch Lake, Peter Davidson, Alicia Jillard, Tacye Bowen, Bronwyn Richards.  
Front row from left: Lynn Houlahan, Anny Druett, Rebecca Gleeson, Lynden Esdaile, Jill Moir, Stamatia Stamatellis.  
(absent: Neva Collings, Angela Van Dyke, Julie Hourigan-Ruse)

The commitment and constancy of the HAC members is a tribute to their passion for the role the HAC plays in ensuring fairness in social housing decision making and giving clients an independent avenue of review. I thank all the members for their dedication and professionalism, in particular those chairing the hearings and preparing the detailed reports on appeals. Lynn Houlahan, Deputy Chair, has been a champion as always, conducting many appeal hearings and also undertaking training and community liaison roles across NSW. Her expertise, knowledge and good humour are greatly appreciated by all members and staff.

The staff of the HAC Secretariat have shown equanimity and grace in dealing with the considerable new challenges over the year. I thank them all for their commitment to excellent client service and high standards in all areas of our operations.

**Lynden Esdaile**  
**Executive Chairperson**

# Appeal Trends

The Housing Appeals Committee (HAC) hears appeals from social housing clients who are not satisfied with a decision made by their housing provider.

The HAC has jurisdiction over the external appeals process for Housing NSW and community-managed housing. Both applicants and tenants can bring matters to the HAC, following an internal review of the decision. The merits review by the HAC takes a fresh look at whether the decision was reached fairly and correctly, taking into account the relevant policy guidelines and the client's circumstances.

## Appeals overview

The number of appeals heard by the HAC in 2010/2011 was slightly fewer than the previous year: 355 cases in total compared with 375 in 2009/2010. Despite this 5% variation a number of factors increased workload due to increasing case complexity.

A further 41 files were dealt with by Secretariat staff, but did not proceed to a hearing (compared with 93 the previous year). Appeals are not heard if the matter falls outside the jurisdiction of the Committee or they need to complete a first level appeal.

## Factors contributing to case complexity

We have observed through the year that cases are becoming more time consuming and complex, and identify several reasons for this.

## *Falling availability of affordable private rental homes in all areas*

The housing difficulties for low income people who are not social housing tenants are becoming ever more stark. Priority housing applicants (people seeking housing ahead of others on the wait turn Housing Register) form by far the largest group of appellants. This group as a proportion of all appeals has remained constant at around 60 percent. Add to this group the appeals related to housing register eligibility (five percent) and succession of tenancy (five percent), former tenant debt (two percent) and Rentstart (two percent) and the picture emerges that three quarters of those seeking a review of a social housing decision are also seeking secure, affordable housing. The importance of a careful housing access decision for this group of people is clear: most experience multiple disadvantages in the housing market for reasons of income, health, mobility, age, ethnicity or disability. The most pressing problems are evident in metropolitan areas: 85 percent of all Housing NSW appeals are from Sydney, with a further 10 percent from the Northern NSW division (mostly Newcastle) and the remaining five percent from the Southern Division (mostly Wollongong). It is clear from many appeals dealt with by the HAC that private renting is becoming harder in a tighter rental market especially for those on Centrelink incomes.

## *Increased awareness of appeals within community housing*

This year there were 19 appeals from clients of community housing, five percent of the total and a 50 percent increase on last year. Community housing providers joined the external appeals system in 2004 and staff of most of the major housing associations have now taken part in good decision

making training run by the HAC. Organisations are engaging more with the appeals system as they become better informed about the value for them and the importance for their clients of access to a robust merits review process. 40 percent of the appeals from community housing clients were about rental subsidy, by their nature complex matters.

## *Changes within social housing*

**Housing Pathways:** 2010 saw the introduction of Housing Pathways, a new approach to housing access, to streamline and integrate the social housing response to client needs. Key to this new system is that clients can now make their application for services at any participating community housing or public housing office, and this is then the organisation that processes their application. With Housing Pathways came new policy, forms and processes which have involved some adjustment in reviewing decisions. It has been apparent in appeals received that some clients and advocates have found the new system a little confusing, however the overall number of appeals relating to decisions made under Housing Pathways has not significantly changed from the previous year. It had been expected that the fact that clients could no longer apply directly for priority housing may have reduced the number of appeals about priority decisions however this has not been the case to date.

**Start Safely:** The new rental subsidy program for women escaping domestic violence has added a new product choice for clients seeking housing assistance. Considering the case for a Start Safely rental subsidy for women declined for Priority Housing is an added layer of eligibility assessment now undertaken by the Committee.

# Appeal Trends

## Who appeals to the HAC

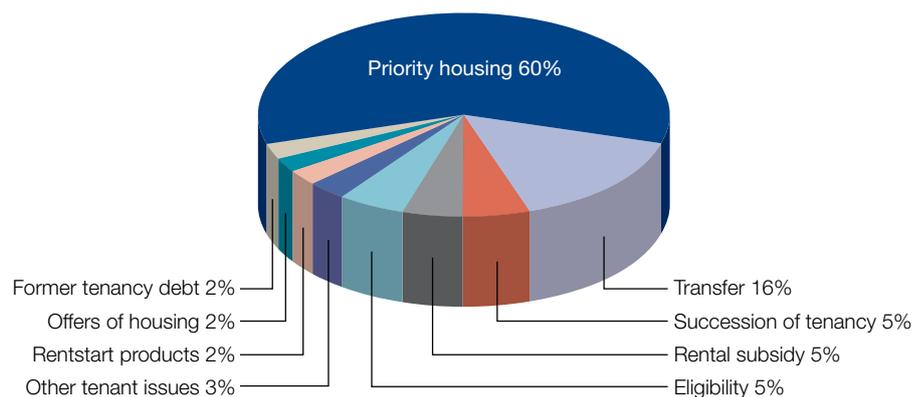
### Cultural and Linguistic Diversity

**(CALD):** The proportion of clients from CALD backgrounds remains above 50 percent: in 2009/10 the figure was 52 percent; this year it was 53 percent. After English, Arabic is the language most often spoken at home by appellants (22 percent), with the next largest groups being Mandarin/Cantonese (six percent), Farsi/Dari (five percent), Turkish (five percent), Assyrian (three percent) and Persian (three percent). As these language groups indicate, many CALD clients have fled war zones or persecution and as a consequence they may face deep medical and social problems that complicate their housing needs. The past year has seen an increase in appeals from recent arrivals of African background, particularly from Sudan and Somalia.

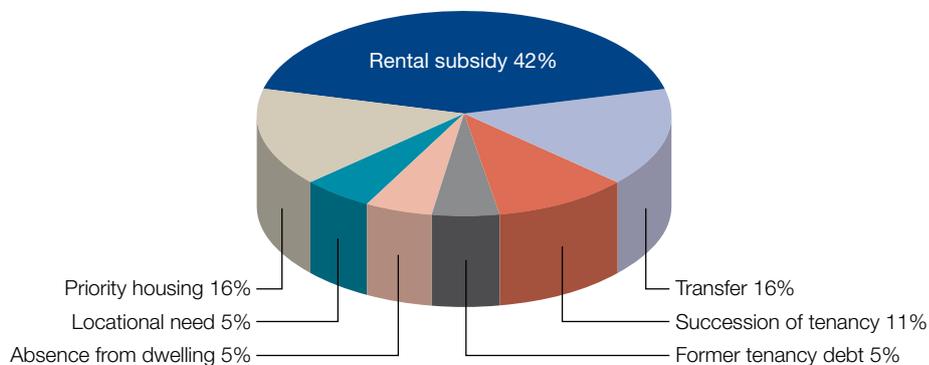
The Committee members are skilled in working with interpreters, and do so in a quarter of all hearings, across 27 languages. When communicating through an interpreter, additional time may be needed in a hearing to discuss mental or physical health issues and culturally specific concepts.

**Aboriginal clients:** The significant increase in the numbers of Aboriginal people accessing the appeals system over the last two years has not continued this year. From 20 cases brought by Aboriginal appellants in 2008/2009 rising to 28 cases in 2009/2010, the number has dropped to only 12 in 2010/2011. This worrying trend reversal, from eight percent to four percent of all appeals cannot be easily explained, but does reflect the barriers Aboriginal people can experience in using their rights. The HAC has continued to work closely and productively with Aboriginal agencies and staff in contact with

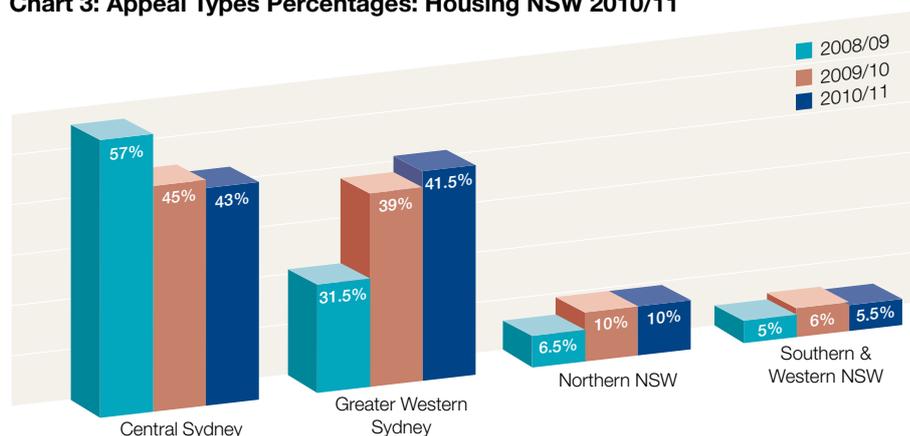
**Chart 1: Appeal Types Percentages – Housing NSW**



**Chart 2: Appeal Types Percentages – Community Housing**



**Chart 3: Appeal Types Percentages: Housing NSW 2010/11**





and supporting Aboriginal clients, through contact with individual staff, information sessions, visits to agencies and participation in Aboriginal housing networks. The Committee is advised and supported by our four Aboriginal Committee members in hearing appeals from Aboriginal clients and engaging with Aboriginal services. An Aboriginal Committee member sits on every appeal from an Aboriginal client.

**Gender:** Women are still more highly represented than men as the main applicant (53 percent of all appeals were from women compared with 58 percent in 2009/2010). This situation is reversed when looking at single appellants: in those 115 cases, 61 percent were men. The significant difference is found in the 27 percent of single appellants who are under 40 years of age: 28 were men and only three were women. The 84 single appellants over 40 were equally represented by men and women.

**Age:** The age profile for appellants remains consistent with recent years. 67 percent of clients are in the age range 25 to 54. 30 percent are over 55 and only three percent under 25.

### **Appeal outcomes**

The benefit of a second level appeal is that a merits review means a fresh assessment by the HAC which makes sure all relevant information has been taken into account and that the relevant policy has been fairly and correctly applied.

In 2010/2011, 56 percent of all second level appeals for Housing NSW clients confirmed the original decision. A further eight percent were resolved pre-hearing or following adjournment. The remaining 36 percent resulted in a recommendation to the Region to change all or part of the decision, based on a reassessment of available information or a different interpretation

of the policy in some cases, and the benefit of new or more detailed information from the client in others. Housing NSW supported 98.5 percent of HAC recommendations.

Interestingly, for community housing appeals the recommendation rate was much higher at 53 percent. This reflects the majority of appeals being complex rental subsidy and priority housing appeals. In 32 percent of appeals the Committee agreed with the housing provider's decision. 16 percent were resolved during the hearing process. Every recommendation made was accepted, indicating a high level of cooperative work between the HAC and the community housing sector.

### **Committee performance**

We tend to assess the quality of our service by the positive feedback we receive from clients about how their matter was dealt with, and the positive relationships we maintain with Housing NSW and community housing staff whose decisions we are reviewing and commenting on.

Quality control in terms of consistency of Committee decision making and the robustness of the reasons for our decisions is undertaken by the Executive Chairperson and Deputy Chairperson, one of whom will check and approve each report before it is sent to the client and the housing provider. The Presiding Chairs meet bi-monthly with the Executive Chairperson and Deputy Chair to discuss hearing trends and issues, and all Committee members gather three times a year for training.

Most clients opt to have their hearing conducted face to face, if they are able to travel to our office in Burwood. The balance between phone and face to face interviews has been a constant 15:85 ratio over recent years. We also give every appellant the opportunity

to attend with a support person or advocate, to bring family members and children, and to have the assistance of an interpreter if their first language is not English. Clients also give us feedback that the professional but informal nature of the hearing makes them feel comfortable, respected and informed.

The key measure of performance for the HAC is our response time as we put emphasis on speedy consideration of appeals:

**Time to hearing:** We continue to surpass our target of no more than 28 days between receiving an appeal request and scheduling the hearing. This year the average was 20 days, similar to the previous two years at 23 days and 17 days.

**Time between hearing and client informed of outcome:** The outcome following a hearing can be a recommendation for a change of decision by the housing provider or agreement with the housing provider's decision. After the hearing, the Presiding Chairperson writes a detailed report and reasons for decision. The HAC target is that this report is sent to the client with 14 days. This target is met with an average this year of 9 days, an improvement over 12.7 days last year.

### **A closer look at transfer appeals**

This year HAC dealt with 55 transfer appeals. We analysed these cases in depth to understand more about who is seeking a transfer and why, and the reasons their housing provider declined their application.

The most significant issue we found was the rate the HAC recommended a change of decision for these matters: 63 percent for transfer appeals, compared to 36 percent for all appeals.

# Policy & Procedural Improvement

Three strong and interrelated messages emerged from our analysis:

- In a highly pressured social housing system, transfer requests may not be addressed as a priority. The HAC heard seven priority housing matters in which a former tenant could have been approved for a transfer rather than leaving their tenancy due to risk or duress. We recommended tenancy reinstatement in each of these cases.
- Decision making about transfer matters varies widely and community-managed housing providers operate their own policies in this area. The possibility of sector wide transfers is not fully realised yet under Housing Pathways.
- The supporting evidence in transfer matters is often very complex, particularly if related to the tenant's mental health or social capacity. The interplay between a tenant's health and their living environment, including anti-social behaviour, is also complicated and makes decision making challenging.

Client focus is a key issue in social housing decision making – letting the client tell their story and then using a broad understanding of policy guidelines to explain where their needs might fit the policy. The reasons behind a transfer request cannot be summarised in categories or on forms and often only fully emerges in conversation with the tenant.

We have continued a strong relationship with Housing NSW and the community housing sector in providing policy and procedural feedback on issues dealt with regularly by the HAC.

Major issues this year have been: Private Rental Subsidy (PRS) policy and operational issues, first level appeals policy and timeframes and former tenant status review policy.

For community housing we have commented on complaint and appeals handling frameworks and tenancy and rent policy.

HAC reasons for recommending a change of decision:

As a significant part of the feedback to housing providers the HAC analyses reason for recommendations to change a decision. The HAC considers a number of factors when determining an appeal outcome, including new information and changes in circumstances.

This table indicates factors in a change of decision in the 102 cases recommended by the HAC. It is important to note that in many cases there is more than one factor indicated.

**Table: Reasons for recommendations**

|                                                                    |            |
|--------------------------------------------------------------------|------------|
| <b>1. Circumstances changed/worsened</b>                           | <b>38%</b> |
| <b>2. Additional information sought or provided</b>                | <b>46%</b> |
| <b>3. Inadequate consideration of information/evidence/options</b> | <b>79%</b> |
| <b>4. Incorrect information used in decision</b>                   | <b>14%</b> |
| <b>5. Policy interpretation incorrect</b>                          | <b>18%</b> |
| <b>6. Procedural fairness flaws</b>                                | <b>7%</b>  |



# Training & Community Education

## Supporting the social housing and community sector to assist their clients

An essential aspect of our work is raising awareness of appeals mechanisms and how best to implement and assist in the appeals process. Well made decisions underpin well managed appeals and increase client satisfaction with decisions. Through training courses we assist social housing staff to be well informed and capable when making decisions and handling appeals. Through forums we assist agencies, acting on behalf of social housing clients, to do the best advocacy job they can. We also respond to individual requests for briefing and community education. Two regular and highly successful HAC education and training activities are the Good Decision Making Training and the annual community agency forum.

### **Good decision making training:**

The HAC delivered the Good Decision Making in Social Housing full day course to more than 150 participants from the social housing sector. Over 100 community housing staff and management from 12 different organisations and 51 Housing NSW staff attended around the state including in the regional centres of Lismore and Coffs Harbour. Feedback from participants in all training has been consistently excellent and demand for training grows each year.

**Housing Provider Briefings:** Two very successful forums were held in early 2011 in partnership with the Federation of Housing Associations (FHA) on the new NSW Residential Tenancies legislation and the implications for decision making and appeals for social housing providers.

### **Community Agencies Information**

**Forum:** In November 2010 the HAC held its 5th annual Community Agencies Information Forum in Liverpool. The half-day forum is designed to help agencies better assist their clients who could appeal a housing decision. The 2010 event attracted more than 120 people: tenant and legal advocates, support workers and individuals from a diverse range of social welfare agencies, key government and human services agencies in Greater Sydney. This event has proved to be an excellent platform for direct communication with advocates and support workers for people in housing need.

# HAC Members & Staff 2010-11

## Executive Chairperson:

Lynden Esdaile

## Deputy Chairperson:

Lynn Houlahan

## Presiding Chairs:

Tacye Bowen, Bronwyn Richards  
and Stamatia Stamatellis

## Members:

Angela Van Dyke, Peter Davidson,  
Rebecca Gleeson, Alicia Jillard,  
Jillian Moir, Ilan Vizel, Julie Hourigan  
Ruse

## Indigenous members:

Neva Collings, Anny Druett, Blanch  
Lake, Paul Newman

## Secretariat Staff during 2010/11

Yasmina Kovacevic, Belinda Wood,  
Hugh Griffiths, Sudesh Kumaran,  
Siniua Su'a, Jenny Rowe



*From left to right: Yasmina Kovacevic,  
Belinda Wood, Hugh Griffiths, Sudesh  
Kumaran, Siniua Su'a (absent: Jenny  
Rowe)*



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