



interpreting balance leadership professional  
fairness culture values reasons understanding  
statewide accessible listening indigenous issues  
outreach inclusive reflecting *independent* ethical  
growth *independent* listening accessible expertise  
success promoting informing independent  
balance improvement feedback *influencing* review

Housing Appeals Committee  
Annual Overview  
2006/2007





## From the Executive Chairperson

Over the last year the HAC has maintained a very strong team, dedicated to providing a fair, just, economical and accessible appeals service. This report outlines our activities to achieve this and the strategies we have undertaken to constantly improve our services. Our core business is those people who are engaging with social housing providers, both Housing NSW and community housing, and who need to have their rights protected at often difficult times. When the HAC deals with clients they are often in housing crisis. They frequently have medical, disability or mental health issues, and may be challenged by language or literacy barriers, or be intimidated by dealing with decision makers. In this environment we strive to provide an opportunity for appellants to 'have their say' and to be assisted to make their case as clearly as possible.

Changes in social housing in NSW have been a significant driver of activity for the HAC throughout 2006-07. In particular the HAC has responded to the changes in operational policy initiated by Housing NSW and community housing providers through the 'Reshaping Public Housing' strategies. New issues with significance for appeals have included:

- Revised income eligibility criteria
- Tenure changes to introduce fixed tenancies
- Charging tenants for water usage
- Changes to the rental subsidy policy
- Increased powers to relocate tenants

There are a number of critical differences in policy for tenants and for applicants. For all new tenancies, fixed terms of 2, 5 or 10 years replace previous ongoing, or 'life', tenancies. Major redevelopment projects underway in key areas such as Dubbo, Minto and Bonnyrigg have led to the introduction of a new approach to relocating tenants, with a specific appeals process for relocation decisions to ensure quick handling of these sometimes difficult issues. Updated eligibility criteria now allow for increased income limits and disability costs, but also focus on greater targeting of housing to complex needs clients.

During 2006-07 there were surprisingly few appeals related to these newly implemented strategies. Both the HAC and Housing NSW recognise however that appeals are likely to increase when tenants on fixed term tenancies start to receive new decisions about the length or renewal of their tenancy.

The HAC received 432 appeals in 2006-07, fewer than the previous year. We attribute some of this reduction to an overall improvement in the quality of Housing NSW and community housing decision making, and better documentation of decisions. The introduction of new processes to check first level appeals in some local areas and a change of first level appeal process to seek resolution prior to appeal has been effective. We have observed more care with original decisions, particularly those relating to priority housing, offers and tenant charges, and new policies and procedures in these areas have further assisted sound decision making.

We expect there always to be a high proportion of appeals on priority housing, reflecting the many difficulties experienced by low income clients in the worsening private rental market, particularly in areas with high and increasing rental levels. The success of Housing NSW Private Rental Brokerage Pilot Scheme and tenancy facilitation strategies in finding housing solutions for people waiting for public housing has been encouraging. Such problem-solving approaches can be expected to lead to some very different outcomes for public housing applicants in the future.

The HAC operates on a merits review model; we give thoughtful and thorough consideration to the appellant's circumstances, taking into account any additional information provided at the time of or following the appeal interview, and make sure we have all the information needed to make a good and fair decision. We recognise that the social housing environment is a difficult one in which to make consistently sound decisions. The issues raised by clients are complex: people's circumstances are volatile; they may be unrealistic about what solutions are possible with limited social housing resources; and they may face mental health, language or cultural issues which limit their capacity to present their case well.



In this challenging environment the HAC is very fortunate to have the skill and dedication of the excellent Committee Chairpersons: Lynn Houlahan, Jenny Ciantar, Tacye Bowen and Bronwyn Richards. They lead the Committee members in ensuring a credible, well documented and thorough decision making process. Their credibility is attested to by the fact that 96% of recommendations for a change of decision have been accepted by Housing NSW or the community housing provider. During 2006-07, this meant that 140 clients received a different outcome as a result of coming to the HAC with their appeal.

The HAC is concerned that some social housing clients are not using the appeal process, whether at the first or second level, and may be suffering disadvantage as a result. We will continue to engage in discussions with Housing NSW and community housing providers about overcoming actual and perceived barriers to appealing by some groups of clients, most notably Indigenous and rural clients.

Lynden Esdaile  
Executive Chairperson

## What does the HAC do?

The Housing Appeals Committee (HAC) is an independent body that reviews decisions made by social housing providers. Appeals can be made to the HAC about decisions of Housing NSW and community housing organisations that provide long term housing. The HAC can make recommendations to these housing providers to change their original decision. The HAC also encourages and assists social housing providers to implement consistent, well documented, accountable and transparent operational policies and procedures.

## Committee Membership

The Committee is led by Executive Chairperson Lynden Esdaile assisted by Deputy Chairpersons Jenny Ciantar and Lynn Houlahan and two additional Presiding Chairpersons, Bronwyn Richards and Tacye Bowen. Ten part time Committee Members are scheduled to sit with a presiding chairperson to undertake hearings. Generally two members sit at each hearing with the presiding chair.

Members bring a wide range of skills and experience to the Committee including expertise in law, psychology, housing, Indigenous & refugee services and a wide range of other human services. The Committee's membership remained stable during 2006-07.



*Committee members (left to right): Kate Timbs, Peter Davidson, Terry Chenery, Jenny Ciantar, Lynn Houlahan, Tacye Bowen, Neita Scott, Bronwyn Richards, Lynden Esdaile, Michael Modder (Registrar), Rebecca Gleeson, Jim Allen & Raymond Brazil. Not present: Neva Collings, Angela Van Dyke & Jack Burns.*



**HAC forum participants**

## Priority Housing application by Mr & Mrs M

“ Mr M and his wife are Australian citizens who retired to Lebanon and bought a property there. When this was destroyed in recent bombing, they fled the conflict and returned to Australia, with very few personal possessions or financial resources. They rented a converted garage, unable to find better accommodation within their financial means. The place was very unsuitable for their medical conditions and mobility problems. They applied for other private rental properties without success, however their application for priority housing was declined by Housing NSW on the basis that they could locate and afford suitable private rental accommodation.

The Committee acknowledged significant medical expenses and the unsuitability of the current living arrangements given the clients' complex medical conditions and a diagnosis of acute post traumatic stress disorder. Since returning to Australia new medical conditions had been diagnosed including cancer. The Committee also recognised that the couple faced additional expenses in having to establish themselves in Australia, as they were left with no possessions and had little family support. The Committee recommended approval for priority housing due to these considerations affecting their ability to secure and afford suitable housing. Housing NSW accepted the Committee's recommendation and the couple were housed on a priority basis. ”

## Achievements 2006-07

### Development of the Housing Appeals Committee Model

The HAC has operated for 12 years with a limited formal structure to define our independent role and our status as an administrative review body. Established in 1995 as a Ministerial Advisory Committee, the HAC undertakes administrative review of decisions using the principles of 'merits review'. This year Housing NSW contracted ERM Consultants to undertake an independent review of the HAC model and to identify options for the future.

The review addressed:

- the independence and status of the HAC
- decision making powers of the HAC
- jurisdictional issues across the social housing sector.

Consultation on the options identified will be completed towards the end of 2007 and a proposal will then be put to the Minister for Housing for implementation. We appreciate the commitment of Housing NSW and of external stakeholders to building on the success of the appeals model to date and advising the Minister on how it can be developed.

### Policy and Practice Feedback to Housing NSW

An important role of the HAC is to assist housing providers improve their decision making policy and practice, drawing on our experience gained from hearing appeals. Activities in this area include a regular Policy and Practice Feedback Report, feedback to senior staff on specific cases, briefing Housing NSW's Executive on appeal trends and critical issues, and meeting regularly with local housing provider staff. Housing NSW regularly consults the HAC in the development of new policies and the review of current policies.

We are strongly committed to assisting social housing providers clarify their policy guidelines and implement fair and consistent decision making practices and see the appeals process as an ideal mechanism to identify those issues that need to be addressed. We identified the following issues in our September 2006 Policy and Practice Feedback Report:

#### Succession of Tenancy Policy

We recommended an amendment to the succession policy to ensure the policy intent about entitlement to succession was equally reflected in the policy detail. Housing NSW responded that the policy would be amended to remove any potential for ambiguity.

#### Rental Subsidy Policy application to self employed tenants

We recommended a review of the Rental Subsidy Policy to allow a more realistic assessment of allowable expenses for people operating small businesses. Housing NSW agreed to review this matter in the context of a planned overall policy review.

#### Carer income exemptions

We noted that the consideration of household income in the Eligibility Policy does not acknowledge that a carer may have a partner and/or dependents living with them or that the caring role may be undertaken by more than one person. Housing NSW logged this complex issue for further consideration and action.

#### Offers of Housing Policy

Changes have been made to policy and procedures relating to making only two housing offers to reflect issues we have raised over the years. This year we highlighted potential procedural problems when offers of housing are made in quick succession, the importance of a clear process for explaining to clients what are considered 'reasonable' grounds for rejecting an offer, and procedural fairness difficulties with time delays between offers. Housing NSW responded that it had introduced an offer response form for clients to fill out, so that there is consistent documentation about each offer. Housing NSW proposes to monitor the operation of the form and sought feedback from the HAC on any impact it may have on the nature and number of appeals relating to offers reaching the HAC. The policy intent is that a second offer is not made until the outcome of the first offer has been finalised, and Housing NSW agrees that if a second offer is made before the first is finalised, it will be dealt with differently procedurally.

#### Absence from Dwelling Policy

To ensure procedural fairness in implementing the absence from dwelling policy, we recommended that clients are advised about the timeframe limitations within the policy when they first apply to be absent. Policy and procedural amendments are being drafted to clarify the operation of the '12 months of absences in 5 years' rule, to go live in early 2008.

#### Former tenant categories

We recommended policy clarification to guide decision makers about the circumstances in which a former tenant deemed 'ineligible' may be reclassified as eligible for housing. Housing NSW agreed and advised that they are reviewing the policy in 2008.

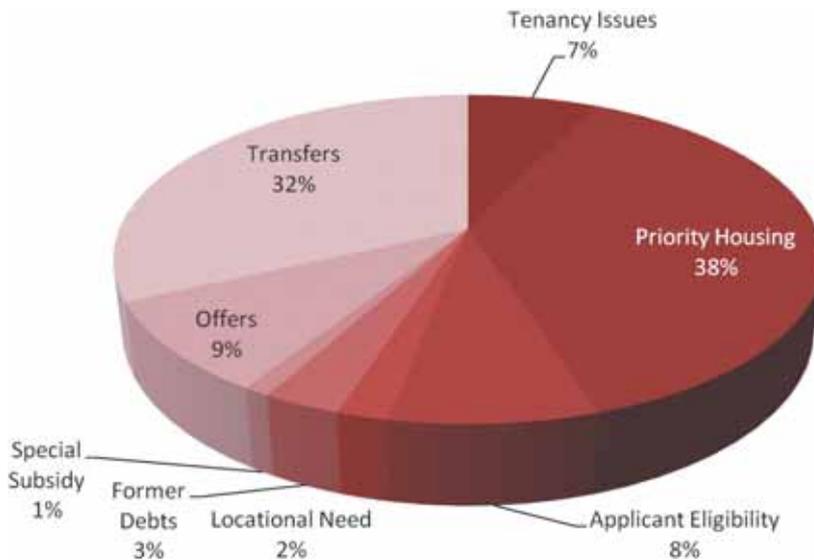
#### Relocations Policy

We raised the issue that the new termination process for tenants who are to be relocated but decline reasonable offers of alternate housing, could lead to these tenants being inadvertently classified as 'former unsatisfactory tenants'. This issue has been logged for consideration and action in 2008.

## Appeal Statistics

### Appeals by clients of Housing NSW

During 2006-07 the HAC heard a total of 329 appeals from Housing NSW clients.



The main appeal issues continue to be the entitlement of applicants to priority housing assistance and of tenants to transfer within Housing NSW accommodation. This is the same result as the previous year when these two issues together accounted for 70% of the appeal matters heard by the HAC, although priority housing matters have now slightly decreased from 40% and transfer matters increased from 30%.

### Source of all appeals

Housing NSW Housing Services Divisions & Community Housing

Central Sydney	(158)	46%
Greater Western Sydney	(110)	32%
Northern NSW	(27)	8%
Southern & Western NSW	(34)	10%
Community Housing	(14)	4%
<b>Total Appeals Heard</b>	<b>(343)</b>	<b>100%</b>



*HAC forum participants*

### Housing NSW Transfer Appeals 2006-07:

- % of all transfer appeals on medical ground
- % of all transfer appeals on harassment/nuisance & annoyance grounds



### Example: Transfer appeals

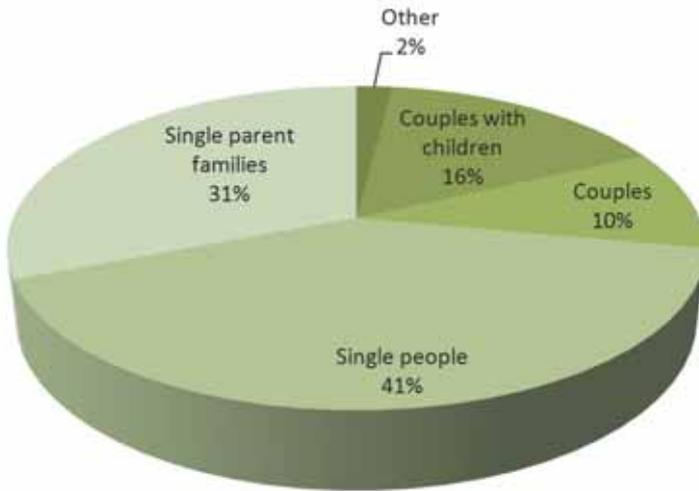
*Transfer decisions are the highest volume appeal type across all divisions. We analysed transfer appeals across all four Housing Services Divisions to assess the main reason tenants who appealed had sought to transfer in the first place: most transfer appeals from Central Sydney tenants were on medical grounds; Greater Western Sydney transfers were equally on medical or harassment grounds; in Northern NSW the largest number concerned harassment/ nuisance and annoyance issues; and Southern & Western NSW recorded relocations as the major appeal basis to the HAC, due to the redevelopment of the Gordon Estate at Dubbo.*

## Client Demographics

Housing NSW and a total of 391 community housing organisations provide social housing to NSW residents. The HAC reviews decisions on entitlements and access to services affecting Housing NSW clients and community housing organisations that provide long term housing.

### Household Profiles

#### Client Households



Single people accounted for 141 (41%) of all appeals to the HAC, most of them (78%) residing in metropolitan Sydney. This high proportion of single appellants reflects their particular difficulties in securing affordable private rental accommodation in Sydney and also the high numbers seeking to transfer from bedsitters.

The main appeal issues for single people were transfers (36%) and priority housing (29%) followed by the suitability of offers of accommodation (10%).

### Indigenous Clients

A total of 15 hearings involved an Aboriginal or Torres Strait Islander client. The majority of these cases (53%) involved transfer issues, in particular residents of Dubbo being relocated on management grounds. The other main category for this client group was priority housing (33%).

The HAC is concerned by the relatively low number of appeals from Aboriginal clients, given the high proportion of tenants and applicants within the social housing system who are of Indigenous background. Aboriginal people (both tenants and applicants) are not using the independent appeals process and are probably under-using the internal appeals process for many complex reasons. Our efforts to engage with advocates and clients through community forums, targeted brochures and briefing of advocates have not yet had an impact on the level of appeals. The HAC is developing new ways to engage with Aboriginal clients with a view to improving appeals access in 2007-08.

### Resolving a Priority Housing issue for Mrs H

“ Mrs H is an elderly single applicant for public housing. She was living on a family member’s veranda at the time she applied for priority housing in the Penrith area. Her application was declined by Housing NSW, as she was assessed as not having an urgent need for housing in Penrith, and able to resolve her housing need in private rental accommodation. Housing NSW also noted that if Mrs H would accept nearby areas, where demand is not as great, she could be housed soon as she had been on the Housing NSW’s waiting list since 2002.

At the appeal hearing the Committee discussed in detail this client’s needs, using an interpreter. The possibility of being housed quickly in nearby areas, given her 5 years on the waiting list, was canvassed in her own language.

The Committee agreed with Housing NSW that Mrs H did not need the Penrith area only and could be housed in adjacent areas. Mrs H accepted the advice to change her area of preference, and she was housed by Housing NSW from the Housing register. ”



**Terry Chenery, HAC Member**



*HAC forum participants*

## Cultural & Linguistic Diversity (CALD)

Clients born in a country other than Australia (184) constituted 54% of appellants in 2006-07, compared with 49% in 2005-06. The majority of clients born overseas came from countries experiencing war or civil unrest: 37% were from Lebanon; 25% from Iraq; 11% from Afghanistan; and most others from Iran, Serbia, Russia and Bosnia.

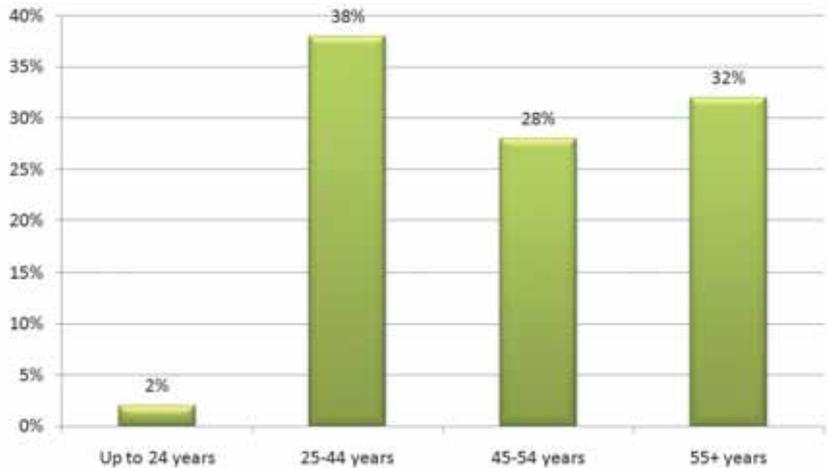
The predominant languages spoken by clients whose primary language is not English were Arabic (43%), Serbian (14%) and Farsi/Persian (12%), with high numbers speaking Russian, Assyrian, Dari and Vietnamese.

Interpreters were used in 28% of all hearings. This is a similar proportion to 2005-06.

## Age Profiles

111 appeals (32%) involved clients aged over 55 years. The main appeal issues for this client group were transfers (35%), priority housing (33%) and the suitability of offers of accommodation (12%).

It is interesting to note that 24 appeals (7%) were from clients aged over 70 years with the major appeal issues being transfer (46%), priority housing (21%) and the suitability of offers of housing (12%).



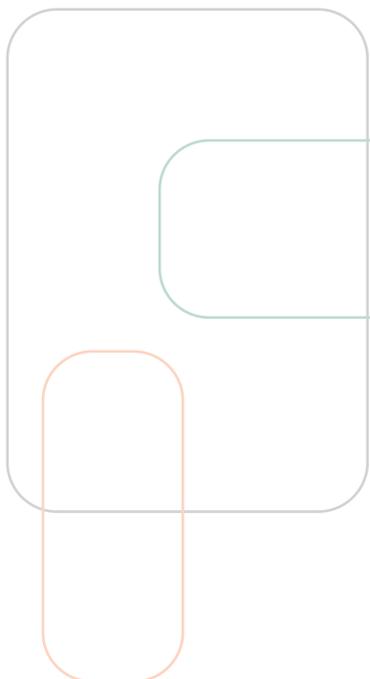
## Transfer for Ms C

*Ms C began her tenancy with Housing NSW in 2004 and applied for a transfer on the basis that harassment by a neighbour was badly affecting her health. Housing NSW did not approve her for transfer as they considered she was suitably housed and had provided insufficient evidence of 'serious and ongoing' harassment, as required in the policy.*

*The HAC review of her case looked at the medical reports, which showed that Ms C has insulin-dependent diabetes mellitus, ischemic heart disease, asthma and chronic depression and that she is unable to concentrate, is distressed and anxious and not sleeping well. At the time she was seeing four different specialists and her GP regularly.*

*Ms C told the HAC she is being stalked, feels threatened and fears that she could be hurt physically. She had continuously reported these issues to the police and to Housing NSW. She locked herself in the unit and refused to open the doors and windows. Ms C provided evidence of police attendance in response to her calls.*

*The Committee spoke with Ms C's doctor who said that all her illnesses were aggravated by her living conditions; she was at risk of having a heart attack and had already required a large increase in her insulin and antidepressant medication. While there was limited evidence about harassment or stalking by the neighbour, the HAC considered that the information from the GP was sufficient evidence that Ms C's current accommodation was placing her health at risk, and that her heart condition and diabetes were both significantly deteriorating. She was prepared to move within her current zone. The Committee recommended that Housing NSW take note of her doctor's concerns and approve her for transfer on the basis of the health risk of her current circumstances. Housing NSW accepted this recommendation and she was soon rehoused within the same area.*



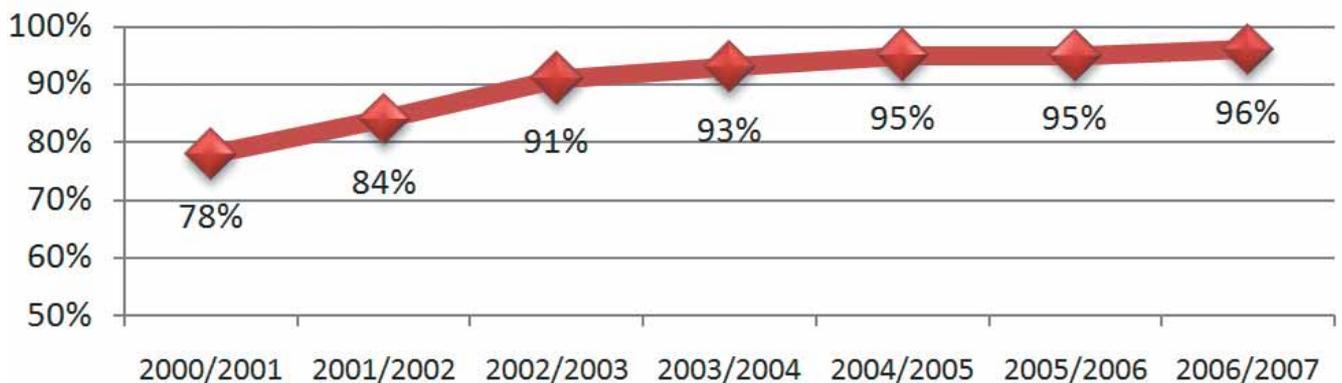
## Appeal Outcomes

The HAC can recommend that the housing provider change their decision or can agree that the housing provider decision is correct. Of the four main appeal issues heard by the Committee during the year quite different outcomes were noted. Our observation is that decision making about priority housing applications and the assessment of eligibility for housing has improved; procedures are better and policy criteria is clearer. This has meant a higher level of agreement with housing providers on these issues.

Appeal Type	Agreed (with housing provider)	Recommended (a change of decision)
Priority Housing	71%	29%
Transfers	42%	58%
Offers of accommodation	23%	77%
Eligibility	64%	36%

The acceptance rate of the Committee's recommendations remains very high with Housing NSW accepting HAC recommendations in 96% of cases (compared with 95% for the previous two years and a steadily increasing rate since 2000) demonstrating the credibility of the HAC.

### Acceptance Rate of Recommendation 2000-2007



*Michael Modder (Registrar), Neita Scott (Member) & forum participant*

## HAC Performance

The HAC aims to provide a fair, speedy, accessible and efficient service to clients. We monitor and measure our performance against a number of standards and benchmarks to ensure we meet these aims.

### Wait time for hearings

We plan to hear all appeals within 6 weeks of registration, and to achieve a four week period if possible. The wait time for a client from appeal registration to hearing will vary according to the volume of appeals at any one time. Generally we achieve the four week timeframe, with some variations over the year: in September 2006 every appeal was heard within 29 days; in March 2007 the longest wait time was only 15 days.

### Access and flexibility

The HAC provides flexibility in the way clients can have their appeal heard. Whenever possible we hold face to face hearings for those clients who want them. In the last year, 81% of appeals were scheduled for face to face interview and only 19% were by telephone. In 2005-06, only 72% of hearings were face to face. Last year no matters were dealt with on the papers only.

### Providing appeal reports to clients

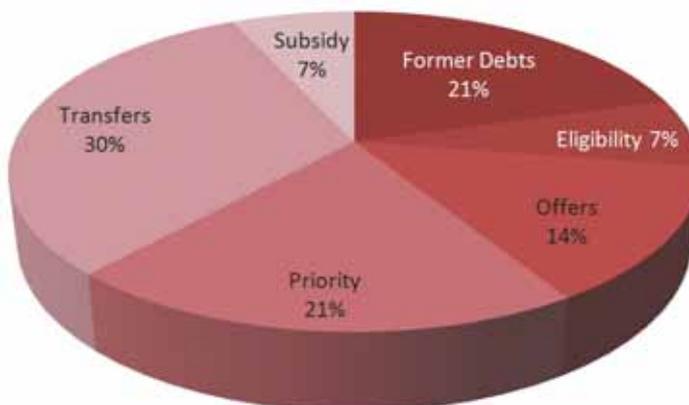
Following each hearing the Committee provides the appellant with a full report and personalised letter explaining the appeal considerations and the conclusion reached by the Committee. The HAC plans to finalise all appeal reports within 14 days of the hearing. This result was largely achieved during the year, with the average timeframe for report completion being 12 days.

### Outcomes from housing providers

The HAC makes a recommendation when a different decision is considered appropriate. Housing providers are asked to respond to our recommendation within 6 weeks. In 2006-07 some matters were dealt with more quickly, with an outcome within 3 weeks in 48% of recommended cases. On average, outcomes were provided by Housing NSW within 5 weeks (a significant improvement in response time over previous years) and we hope to see this timeframe significantly reduced in future with more streamlined procedures.

## Community Housing Appeals

During 2006-07 14 hearings were held on appeals by clients of community housing organisations. In the previous year, 12 appeals from this sector proceeded to a hearing.



It is interesting to note that community housing clients appeal on different issues from public housing clients. There is, for example a higher rate of appeal relating to former tenant debt and lower rate of appeal on priority housing. As with public housing appeals, most originated from clients living in metropolitan Sydney.

In 8 cases (58%), the Committee recommended a change of decision (in full or in part) by the community housing provider. Our recommendations were accepted in all but one case, an acceptance rate of 86%.

Community housing is a growing sector within social housing in NSW, and the HAC is keen to help develop the quality and transparency of community housing provider policy and their decision making processes. It is also crucial that community housing clients have a good awareness of their appeal rights. Through continuous liaison with community housing providers and targeted training, we aim to improve community housing client access to good decisions and to the appeals process. Giving feedback to individual providers from appeals heard is also an effective tool for improving decision making policy and practices.



*Bronwyn Richards (HAC Presiding Chair) leading discussion at HAC forum*

## Education & Promotion

The HAC undertakes educational activities to enhance the decision making skills of housing provider staff and to increase awareness of social housing clients' right to have reviews undertaken.

### Public education activities

The HAC conducted a number of seminars and presentations about the appeals process for the non-government sector, covering agencies such as Regional Tenant Associations, Area Tenant Councils, welfare services and Migrant Resource Centres. Our seminars are designed to improve access to information about the appeals process and to better equip advocates to assist their clients.

The HAC has also briefed electorate office staff, who are frequently asked to assist social housing clients, in a number of locations across the state and they were appreciative of the opportunity to learn more about the appeals system.

### Aboriginal clients and agencies

A high priority for the HAC is to ensure that Aboriginal people have access to the appeals process and assistance in submitting appeals. We target information to Indigenous clients and to advocacy groups who offer assistance with housing issues. We had an information stall at the NSW Annual Aboriginal Football Knockout Day held in October 2006 in Marrickville, identified as a good opportunity, along with a number of other government and non-government agencies, to provide information on housing issues and rights. We participated in The Gathering, an event organised by Housing NSW to involve all Aboriginal public housing staff, with the aim of providing the best possible services and advice to Aboriginal clients in need of housing services. Jim Allen, HAC Indigenous Member, spoke about the appeals process and discussed strategies for improving access for Aboriginal public housing tenants and applicants in all areas of social housing products and services.

The HAC liaised with the NSW Aboriginal Tenants Advice and Advocacy Services in person and by telephone to inform Aboriginal tenant advocates about the HAC and about the issues that can be appealed by clients. These agencies are based in both regional and metropolitan areas, including Dubbo, Batemans Bay, Grafton, Marrickville, and Newcastle. We have an ongoing commitment to keep these agencies well resourced with promotional material and publications about the HAC and practical information on how clients can access their appeal rights.

### Community Agencies Information Forum

In December 2006, the HAC organised a forum for community agency staff to brief them about the social housing appeals process and raise awareness about how their clients could be supported to pursue their appeal rights. The half day event started with presentations, followed by workshops involving small groups of participants led by HAC Members discussing how access to the appeals system could be improved. Attendance at the forum was exceptional with a total of 85 people representing agencies as diverse as migrant resource centres, tenant support services and welfare agencies. 75% of participants stated the forum had improved their knowledge of the HAC appeals process and 94% of respondents stated they would be assisting more of their clients to appeal in the future. Participant suggestions have been utilised in the development of our communication and training strategy.



*HAC forum participants*

## Communication and Training Strategy 2006-07

In 2006-07, the HAC fulfilled our commitment to improve the knowledge and skills of the wider social housing and community agencies sector by providing seminars, presentations and workshops about the appeals process. These included specifically designed workshops about successful decision making techniques for social housing practitioners, both in the public and community housing sectors.

### Appeals Best Practice Workshops

The HAC was asked by Housing NSW to design and deliver specialised workshops in decision making and documentation at the first level of appeal to key operational staff. This new workshop built on our 'Good Decision Making in Social Housing' workshop and was designed to train staff to deal with the expectations of the revised policy on first level appeals, to be implemented during 2007. The new appeals policy includes a revised procedure to ensure all clients will receive a full first level appeal report including the assessment and reasons for decision. We are happy to support this important procedural fairness initiative, one that will improve the transparency of decision making by Housing NSW.

We delivered four Appeals Best Practice Workshops in 2006-07, attended by 64 public housing staff. Feedback was outstanding and indicates to us the ongoing need for further specialised, tailored decision making training for staff across the state. More workshops are planned for 2007-08.



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