

# Housing Appeals Committee 2002/2003



HOUSING  
APPEALS  
COMMITTEE

*'The Housing Appeals Committee is a very important government agency which ensures decisions made by social housing providers in NSW are fair and within policy guidelines. This year the Committee has dealt with over 500 appeals by Department of Housing and community housing clients who are dissatisfied with a decision. The Committee is an independent agency with Cabinet appointed members with the expertise to review housing matters in an impartial and considered manner. They also use their experience from appeals to improve the policies and decision making of housing providers. I look forward to working with the Housing Appeals Committee to enhance its role in ensuring tenants and applicants get the fairest deal in housing decisions in NSW.'*

Carl Scully, Minister for Housing

*“My family need to move from our Department unit to a house with a yard. My son has ADHD and does not cope with a unit and I feel as though our problems and medical reports have not been taken into account enough. I am appealing to see if I can get a transfer to somewhere that will suit us better.”*

Welcome to the new report format for the Housing Appeals Committee (HAC). Since the launch of our web site late in 2002 we have decided to change to a briefer annual update document rather than producing the more formal and detailed annual overview.

#### **This update highlights:**

- What the HAC does;
- Achievements in 2002-2003;
- Trends and statistics for the year;
- Priorities and challenges for 2003-2004.

For more detailed information we encourage all interested parties to visit our web site at [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au) or to talk to the staff at the HAC secretariat.

#### **What is the HAC?**

- The Housing Appeals Committee (HAC) is an independent agency which can review decisions of social housing providers.
- Appeals can be made to the HAC about decisions of the NSW Department of Housing or community housing organisations providing long term housing.
- The HAC reviews decisions to see if they are fair, reasonable and made within the policy of the housing provider. The HAC can recommend changes to the decision of housing providers.
- The HAC is informal and accessible to clients of social housing. There is no charge to clients for our service.

The HAC hears appeals relating to a wide range of social housing provider decisions but not matters which come under the jurisdiction of other tribunals such as the Consumer, Trader and Tenancy Tribunal (CTTT).

#### **Who is the Committee?**

- There are currently 15 HAC members. Each hearing involves 2 or 3 Committee members, one of whom is presiding chair.
- Members have a range of qualifications including experience in housing, community services, health, law, psychology or social welfare.
- Aboriginal members who have been appointed to the Committee will always sit on cases which involve an Aboriginal client.

The diversity of skills and experience of members enables the Committee to provide clients with an impartial, detailed and independent assessment both of their housing needs and of the appropriateness and fairness of the original decision made by the housing provider.

#### **Who is the Secretariat?**

The HAC Secretariat:

- Advises clients about the appeals process.
- Manages the appeal process including arranging appeal hearings and interpreters and sending out result reports.
- Manages communication strategies and projects to meet Committee objectives.
- Advises Committee members on Department policy and procedures.
- Staff do not make decisions on appeals, this is done by independent Committee members appointed by the Minister and Cabinet.



*Lynden Esdaile  
Executive Chairperson*



*Housing Appeals Committee Secretariat staff  
left to right: Jenny Rowe, Siniua Su'a, Karren  
Antony, Karen Wells, Elizabeth Collins.  
Absent: Donal Phelan*

The HAC achieved completion of 501 appeal matters within budget and reasonable performance criteria for administrative review processes. Over the 8 years of the HAC's existence we have received 2,967 appeals (as at 30 June 2003). The past 2 years have seen stable appeal numbers of about 560 per year although there are variations in the types of matters appealed.

The Committee monitors and measures its performance against a number of standards.

Some of these are:

- **Waiting time to hear new appeals:**

The Committee aims to hear an appeal within 6 weeks of receipt. This was achieved in 75% of cases. In a number of cases where delays were in excess of 6 weeks the client had requested that their appeal be rescheduled to a later date or delays were experienced in accessing the Department of Housing file.

- **Written responses to appellant after a hearing:**

The Committee aims to provide its recommendation in writing to the appellant within 14 days of the meeting. The Committee was able to achieve this in 75% of cases. In a further 22% of cases, clients were issued with the Committee's report within 21 days of the meeting.

### **Increased appeal numbers from Aboriginal clients**

Due to the low level of appeals in the past from Aboriginal & Torres Strait Islander clients the Committee has targeted information to advocates for tenants and applicants. This has led to an increased awareness of appeal rights and a 66% increase in appeals from Aboriginal clients. The Committee is committed to ensuring that Aboriginal tenants and applicants have access to and understanding of the appeals process.

### **Working with the Department of Housing to improve policy and procedures**

The HAC has provided detailed comments to the Department on a number of policy areas including the new renewable tenancies policy and existing offers, transfer, priority housing and rental fraud policies. The Committee provides ongoing policy comment relating to individual appeals and six monthly detailed reports providing an overview of issues across the state. The Department responds formally to the HAC on the issues raised in these reports, indicating the actions to be taken to improve policy and procedures.

### **Launch of the Housing Appeals Committee web site**

A breakthrough in the HAC communications strategy came in November 2002 with the launch of the web site - [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au) The major targets for the site are the advocacy organisations assisting clients and the housing providers themselves. Information in 10 languages is provided to assist clients understand the appeal process. We encourage everyone to visit [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au). and provide feedback so that we can continue to develop the site to meet the needs of our users.



*Left to Right: Lynden Esdaile (Executive Chairperson), Lynn Houlahan, Jenny Ciantar (Deputy Chairpersons), Bronwyn Richards, Tacye Bowen (Presiding Members).*

*I appealed to the HAC because I can't manage any longer in private rental. It is too expensive and agents won't rent anything decent to me because I am unemployed and have 5 kids. I really need Department housing now"*

## Appeals Received

In 2002/ 2003 564 appeals were received from clients of the Department of Housing. 4 appeals were received from clients of community housing organisations. The Housing Appeals Committee conducted 105 meetings and heard 501 appeals. These figures are consistent with the previous year with only a 3% increase in appeals received.

## Where are Appeals coming from?

All metropolitan areas recorded a decrease in the number of appeals with the exception of the former South Western Sydney Region which had a 43% increase. Overall, appeals originating from the metropolitan area decreased by 6%. In comparison appeals originating from country areas have grown with a 48% increase in numbers compared to the previous year.

It is believed that the shift in appeal trends can be attributed to improvements in the decision making processes and increased awareness of the appeal system particularly in country areas.

## Types of Appeals

Figure 2 illustrates the different types of appeal matters registered during the year. Priority Housing matters represent almost 57% of all appeals received. This is a 17% decrease in the number of priority housing appeals compared to last year. Transfers now represent almost 26% of all appeals received which is a 19% increase in the number of transfer appeals.

## Who is Appealing?

Almost 40% of appellants were aged between 45 and 64 years with 35% of applicants being over the age of 55 years. These figures reflect the growing need for secure housing by older clients and the difficulties they experience in private rental housing. In previous years the majority of appellants were between the ages of 25 - 44 years however these figures have declined by 8% with the greater demand coming from the 45 - 64 year olds.

HAC statistics show the considerable difficulty appellants experience in the private rental market, particularly single appellants. The Committee continues to receive an increasing number of appeals from single applicants. Appeals from single applicants have grown a further 14% in addition to a 51% increase recorded for the previous year. Approximately 41% of all single applicants were over the age of 55 years.

Figure 3 represents the ethnic background of our clients. The Committee continues to receive a large number of appeals from appellants of non-English speaking background. An interpreter was required in 40% of all cases considered by the Committee. The main language groups of appellants were Arabic, Assyrian, Bosnian, Farsi/ Dari, Greek, Polish, Mandarin, Serbian and Turkish.

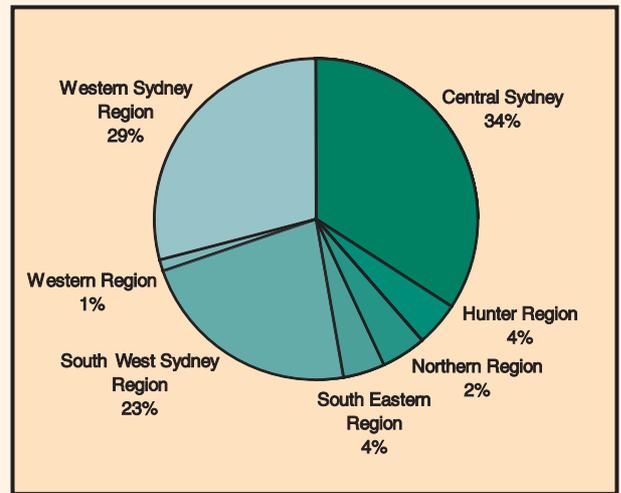


Figure 1 - Regional Source of Appeals

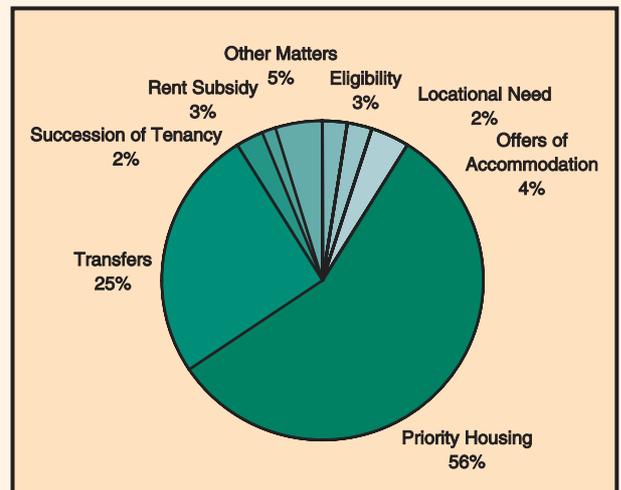


Figure 2 - Types of Appeal



*“When I applied for housing with the community housing organisation in my area, they said I did not meet the criteria for being on their waiting list. I think I do because I have a lot of medical and financial problems so I am appealing this decision.”*

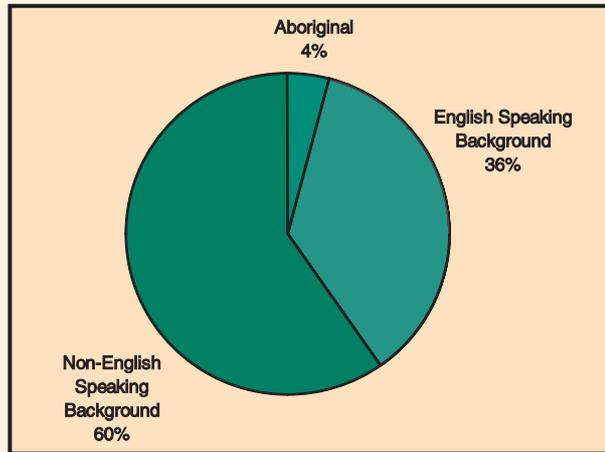


Figure 3 - Ethnic Background of Clients

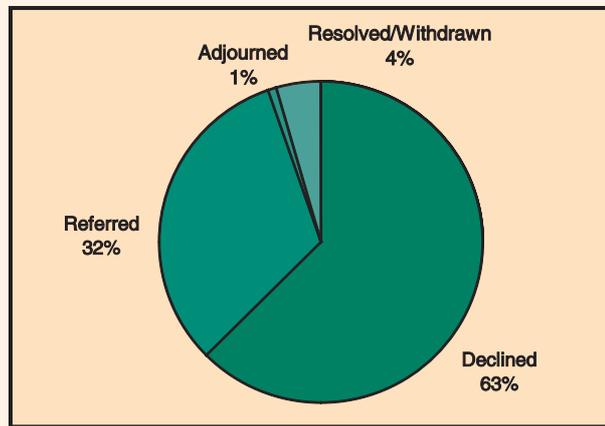


Figure 4 - Appeal Outcomes 2002/2003

### Committee Recommendations

As shown in Figure 4 the Committee agreed with the Department's decision in almost 63% of cases. In 32% of cases the Committee referred the matter back to the Department of Housing recommending a change of decision.

### Department of Housing Determination

Table 1 shows the Committee's recommendation and the Department of Housing's final determination. The Department reports back to the Committee on the outcome of its determination. Of the responses received from recommendations the outcome was changed or resolved in 91% of matters.

### Community Housing Statistical update

During 2002/ 2003 the Committee received only 4 appeals from clients of Community Housing organisations. One of these matters was not considered as it related to services outside the jurisdiction of the Housing Appeals Committee. The Committee agreed with the housing provider's decision in two of these cases and in the remaining case the Committee recommended a change of decision.

DoH Outcome	Cases referred to the DOH by the Housing Appeals Committee	
	Number	Percent
Decision changed (1)	134	82.7
Decision not changed (2)	13	8
Resolved (3)	3	1.9
No result (4)	12	7.4
<b>TOTAL</b>	<b>162</b>	<b>100</b>

*Notes:*

- (1) The original decision was changed and the client received the service.
- (2) The original decision was not changed.
- (3) Matter resolved by mutual agreement or service no longer sought.
- (4) The Committee yet to be advised of the Department's decision.

## Moving the model forward

At present the HAC can only make recommendations to housing providers and while most recommendations are accepted, there are clearly inadequacies with the strength and independence of the Committee compared to other administrative review tribunals. While the HAC does not often receive criticism about the work it does, there is concern by some agencies that the model for independent appeals in NSW needs to develop to a 'next stage' based on the success and experience gained to date. The impetus for this is stronger with the expansion of the HAC jurisdiction to hear community housing appeals. A major priority for the HAC is working with the housing providers to develop the appeals model to achieve greater credibility for the appeals process without losing the flexibility and accessibility of the current system.

## Focus on Aboriginal and Torres Strait Islander clients

A promotional program focussing on the Aboriginal and Torres Strait Islander communities will be implemented in 2003/ 2004. This will include working closely with the Aboriginal Housing Office, Aboriginal Tenancy Advice Services and the development of an information brochure specifically for Aboriginal and Torres Strait Islander clients to be distributed from October 2003.

## Community Housing Appeal System Development

The independent evaluation of the Community Housing External Appeals System pilot is complete and implementation of the next phase is the key issue. The HAC will be involved with the Office of Community Housing (OCH), the NSW Federation of Housing Associations (FHA), and the Association to Resource Co-operative Housing (ARCH) and Shelter to address the report recommendations and design and implement the future independent appeals process for community housing clients.

## Training modules for housing decision makers

A key objective of the HAC is to encourage the achievement of consistent, well-documented and accountable decisions and transparent policies and procedures by housing providers. In 2004 we will develop a training module focussing on decision making and the principles of procedural fairness for housing providers. This module will be used to train staff from the Department of Housing and community housing organisations.



*Housing Appeals Committee members. Front row left to right: Stamatia Stamatellis, Angela Van Dyke, Jenny Ciantar, Kate Timbs, Seth Merritt. Back row left to right: Lynden Esdaile, Jack Burns, Tacye Bowen, Bronwyn Richards, Peter Davidson, Rebecca Gleeson, Raymond Brazil, Lynn Houlahan, David Dobell. Absent: Sharon Bloxsome*

## Communication and Education

The HAC has found that the best strategy for ensuring clients know their appeal rights is to educate advocacy and support organisations to be aware of the appeals process and how to help people appeal. A training module will be developed to target information to Migrant Resource Centres, Tenancy Advice and Information Services, support agencies and NESB community organisations. We will also undertake a number of seminar and meeting presentations as part of the ongoing communication strategy.

## Policy and Procedural Feedback

Policy and procedural feedback is a crucial part of the HAC's role in working to improve the decision making of housing providers. The HAC will continue to provide feedback to the Minister and the Department of Housing on issues arising from the appeal process. Once the community housing appeals process is established it is envisaged that HAC will also produce similar reports for the community housing sector.

## A Challenge to Social Housing Providers

Government and community housing providers must be vigilant about being fair and transparent in decision making. They have a lot of power and influence over the daily lives of their tenants and of applicants for their services.

The challenge for providers to answer is:

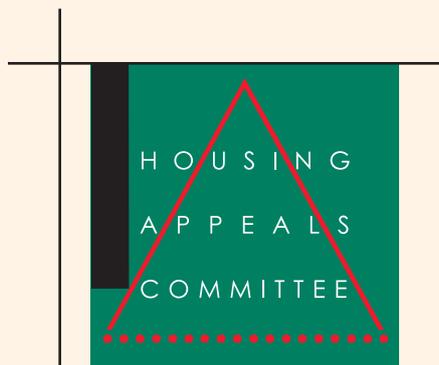
- Are all policies of the organisation clearly documented, consistent and freely available to the public
- Do staff apply the policy consistently or are other 'informal' criteria also applied? How do they monitor this?
- Are all applicants and tenants applying for a service told of decisions in writing or are they just given verbal 'advice'? Are they told all the reasons for the decision and their appeal rights?
- Is the first level appeal process operating properly and separately from the original decision making?
- Are appeals considered a 'bad thing' in the organisation - a poor reflection on the staff rather than a valid exercise of client rights?
- Are appeals processes advertised in housing provider brochures, newsletters and offices?

## *Housing Appeals Committee:*

*"Promoting consistency and accountability in the decision making process and encouraging transparent policies and procedures by housing providers."*

[www.hac.nsw.gov.au](http://www.hac.nsw.gov.au)

Housing Appeals Committee 2002/2003



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