

**Response to the Western Australian Department of Housing Consultation**

**Review of the Housing Appeals Mechanism**

# **SHELTER WA**

**December 2009**

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**Contents**

**Questions to Guide Submissions**

**Overview of Shelter WA**

**Introduction**

**Affordable Housing Accommodation Issues in WA**

**Change in Public Housing Supply and Targeting Model:**

**The Experience of Public Rental Applicants and New Tenants Today:**

**Acknowledging Deficits of the Former HAM System & Departmental Cultural Change**

**Response to HAM Review Questions**

**Conclusion**

## **Questions to Guide Submissions**

Following a Ministerial request to improve the efficiency of the Housing Appeals Mechanism (HAM), the process has been reviewed.

### Questions to Guide Submissions

1. What more can the Housing WA do to guarantee the HAM's three basic principles are apparent in all of its functions?
  - Fairness
  - Transparency
  - Accountability
2. How can Housing WA ensure the HAM remains equally accessible and understandable to clients when we complete the transition from a dispute resolution process to an administrative review mechanism?
3. How could the HAM be used to guide continuous improvements to service delivery?
4. What role might there be in the process for other parties, for example client advocates, and how can we formalise and enhance these roles?

Submissions to be forwarded in writing to:

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## **Overview of Shelter WA:**

Shelter WA is the not-for-profit, non-government peak body for low income housing consumers in Western Australian. Together with national organisations including Homelessness Australia (HA), the National Association of Tenant Organisations (NATO), Australian Council of Social Services (ACOSS) and the Community Housing Federation of Australia (CHFA), Shelter WA is part of the federation of Australian State and Territory Shelter organisations, National Shelter.

Shelter WA was established in 1979 and has been operating consistently since then. Other non-government organisations that had their genesis in Shelter WA include the Tenants Advice Service (TAS) of WA, the Community Housing Coalition of WA (CHCWA) and the WA Federation of Housing Collectives (FOHCOL).

Shelter WA provides an informed, consumer focused voice on housing policy, based on quantitative and qualitative research, data analysis, consultation and feedback from consumers, non-government and government service providers and housing and support organisations. Shelter WA is represented and vigorously participates in many government, non-government and intersector committees, taskforces and working groups and actively contributes to any consultation and submission opportunities that hold potential to improve the housing outcomes of those on low incomes. Shelter WA produces frequent newsletters and updates that are circulated electronically to a wide audience, runs regular Forums, Consultation Workshops and information and awareness raising sessions and maintains an up to-date website.

Shelter WA also gives seminars and informative presentations about affordable housing to interested groups and over the last year this has included Centrelink Senior Managers and the Community Consultative Committee, Job Network Providers, Community Legal Centres, TAFE student groups, the Mental Health, Financial Counsellors and Community Psychology Conferences.

Shelter WA collaborates and partners with other non-government Peak bodies including WACOSS, TAS and CHCWA to progress adequate affordable housing and tenancy support responses.

Shelter WA is a membership based Incorporated Association governed by a Management Committee funded by the Department of Housing and other occasional grants, supplemented with membership fees.

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## **Introduction:**

### **Affordable Housing Accommodation Issues in WA:**

The accommodation issues facing low income and otherwise disadvantaged households in WA include:

- A private rental sector that is scarce, unaffordable and insecure with a large number of unregulated and non-compliant landlords
- An overall lack of affordable and well located rental housing in all sectors and in all regions
- Very low turnover and vacancy rates in public rental housing
- Increasing proportion of high and complex need households occupying public rental
- Increasing and growing proportion of aged and disability pensioner public rental tenant households (increasing the average length of stay in public rental, reducing turnover and requiring tenancy support and care services to maintain their accommodation in the community)
- Low proportion of public rental wheelchair accessible properties (universal design)
- Long waiting times for public rental to be allocated (5-7 years)
- Increasing waiting list numbers (reported to be growing at 80 new applicants a week)
- Long and increasing waiting time for those with urgent and high priority need for public rental housing
- Particular high housing need for specific cohorts including Aboriginal households, refugee and humanitarian entrants, young people leaving state care, people exiting the justice system, people exiting the homeless service system, women and children escaping domestic violence, key workers in regional resource and mining 'boom-towns' and single low income seniors.
- Mismatch in size and type of housing to applicant and tenant household profiles
- Old and dilapidated public housing stock

### **Change in Public Housing Supply and Targeting Model:**

The supply model and principle intent for the provision of Public Rental Housing in WA (illustrated by narrowing eligibility and targeting those people in greatest need) has changed over the 5 decades of provision and we now have a residual system buckling under the multi-faceted needs of the poorest, sickest, frailest and most disadvantaged. The current image is in stark contrast to the early model of State Housing where there was no income eligibility limitation for tenants or state housing home buyers, whole suburbs were built with War Service and State Housing funding and showcased a diverse, tolerant and broad social mix without the concentration of disadvantage we associate with state housing suburbs today.

### **The Experience of Public Rental Applicants and New Tenants Today:**

A potential consumer of public housing faces numerous barriers, lags, delays, complicated administrative hurdles, changing individual and staff contact points for the same area of responsibility or inquiry and a generally disinterested and unresponsive system. A Public Housing staff member with responsibility for managing tenancies or responding to requests for maintenance, transfers, repairs or upgrades to properties is already managing 2-4 times the number of tenancies an equivalent worker in private real estate tenancy management would deal with and all tenancies of the public housing worker are low-income and mostly high need.

In comparison with the expected fittings and fixtures in a dwelling rented privately, public housing rental properties do not routinely include window treatments, floor coverings or light fixtures, so a low-income household must purchase these property incidentals in order to enjoy privacy from their neighbours and passersby, a modicum of floor comfort underfoot or the aesthetic of a light shade covering bare globes in the ceilings. After waiting on average 5 years to be allocated a dwelling that is usually less appealing (despite being cheaper) than other rental properties, it is not surprising that many tenants are less than overjoyed when introduced to their new home and make requests for improvements, modifications or other responses from the Department of Housing.

## **Acknowledging Deficits of the Former HAM System & Departmental Cultural Change:**

Shelter WA recognises the deficiencies of the former *Homeswest* Appeals Mechanism, and appreciates that some Appeals are/were lodged with the intent of attempting to secure a more sympathetic 'second opinion' or for the purpose of delaying an adverse tenant household impact arising from a (reasonable) departmental decision. Shelter WA further acknowledges that most departmental tenancy management staffers go to great lengths to support and assist, guide and inform tenant households of their rights and responsibilities, and make every attempt to maintain households struggling to remain in their public rental housing but experiencing personal, social or financial difficulties.

As one example of a changing culture at the Department – more toward sustaining tenancies than evicting 'problem' households - Shelter WA is encouraged by the recent policy and procedure implementation of a more engaged, early intervention and pro-active Antisocial Behaviour response and of the inclusive partnership model reflected in this instrument.

Unfortunately in all areas where there is power/knowledge/resource/choice differential between consumer and provider there is need for both an Administrative Review process to determine procedural fairness **and** a Dispute Resolution process to deal with complaints. In the absence of (or lack of awareness of the existence of) a Dispute Resolution process, an Administrative Review process will become the default catch-all for any grievances, whether based in administrative or procedural grounds or with a personal, environmental or social element.

For this reason, whilst Shelter WA essentially supports the change in the HAM process, we strongly recommend that WA Department of Housing consumers and applicants be routinely given information about the existence and role of the Western Australian State Ombudsman and the Equal Opportunities Commission. The provision of this information will ensure that public housing customers are offered a suitably robust, independent and external complaints and grievance mechanism to divert any tenant or applicant issues of concern that may have merit but are not an error of process.

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## Response to HAM Review Questions

### 1. What more can Housing WA do to guarantee the HAM's three basic principles are apparent in all of its functions?

- Fairness
- Transparency
- Accountability

One of the most important aspects of quality customer service is ensuring customers have the necessary breadth of information they need to make informed decisions and to be aware of the parameters and boundaries of any review or regulatory bodies' decision making capacity and abilities.

The Department has a mission statement: 'playing our part in building better communities' that is aspirational, difficult to achieve and easy to challenge. An explanatory statement expanding on the values Western Australians aspire to – perhaps 'tolerance', 'acceptance' and 'a fair go' which also identifies the limits of a public agencies' responsibilities and capacity to change social culture and public norms of behaviour would avoid misperception.

Housing WA could also provide information or relevant agency brochures to applicants and clients about the existence and role of regulatory, advocacy and investigative bodies including public and community agencies such as;

- Shelter WA (providing free membership and an informed voice for low income housing consumers)
- Tenants Advice Service WA (giving legal advice for tenants)
- The State Ombudsman
- The Equal Opportunity Commission

### 2. How can Housing WA ensure the HAM remains equally accessible and understandable to clients when we complete the transition from a dispute resolution process to an administrative review mechanism?

Housing WA could undertake an information strategy to inform the public, interested stakeholders, customers and clients about changes to the HAM. This could be undertaken using media sources – radio, print and possibly television advertising to ensure blanket coverage and reach.

### 3. How could the HAM be used to guide continuous improvements to service delivery?

A circular quality improvement process should be part of the ongoing review and evaluation of the HAM. All issues presented to the HAM could be classified and categorised around themes or issues with repeated or commonly presenting concerns indicating a need for staff training, support, information provision or strategic agency and cultural shifts. Frank and fearless embracing of commonly occurring complaints and appeals are an excellent source of direction for improvement in the path toward best practice.

### 4. What role might there be in the process for other parties, for example client advocates, and how can we formalise and enhance these roles?

Community lay people acting as client advocates, support provider staff and independent identified professional advocates can be included in the HAM process at Tier 2 of the new process. Clarity and information provision about the qualifications, experience, and appropriate personal skill level of potential appellant advocates and of those selected to form regional tier 2 HAM panels need to be promoted and advertised and made publicly and routinely available to any individual that requests or may benefit from this information. This information may need to be provided repeatedly at several points of contact by customers and clients to ensure the information is received.

## **Conclusion:**

Whilst a distinction must be drawn between procedural fairness and grievance or dispute resolution it must be made clear what the boundaries and parameters of the HAM process is (and is not). Despite the fact procedural fairness is concerned specifically with the manner in which a decision is made, rather than the merits of the decision, an alternative forum and information about the existence of this alternative forum for disgruntled clients to express and have their complaints heard that lies independently and outside the scope of the HAM must be made available to Housing WA consumers.

All clients of Housing WA should also routinely be offered avenues for them to improve their knowledge and understanding of the Western Australian public housing tenancy sector and the pressures and challenges that Housing WA faces. Giving customers' information about independent and impartial regulatory and advocacy bodies such as Shelter WA, TAS, the EOC and the State Ombudsman will allay suspicion and reduce criticism. It will also strengthen evidence that Housing WA strives for best practice and seeks to deliver highest quality service and promote social inclusion, participation and the achievement of individual potential – illustrating the Housing WA motto – 'playing our part in building better communities'.

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