

# Housing Assistance Public Rental Housing Assistance Program (Review of decision) Operation Guideline 2012 (No 1)

Notifiable Instrument NI2012 – 255

made under the

**Housing Assistance Act 2007 s21(1)** Approved housing assistance programs—housing operation guidelines

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## 1 Name of instrument

This instrument is the *Housing Assistance Public Rental Housing Assistance Program (Review of decision) Operation Guideline 2012 (No 1)*.

## 2 Commencement

This instrument commences on the day after notification.

## 3 Operation Guideline

In accordance with section 21(1) of the *Housing Assistance Act 2007* I issue this housing operation guideline for the *Housing Assistance Public Rental Housing Assistance Program 2010* ("the Program").

## Purpose

To provide guidance on the procedure to be adopted when an applicant seeks a review of decision.

## Relevant provision of the Program

### Clause 31 – Review of decision

1. Subclause 31(1) provides that an *affected<sup>1</sup> person* may ask the housing commissioner, in writing, for a review of an internally reviewable decision.

Subclause 31(2) requires that the request must be made within 28 days after the person is given notice of the decision, or such longer period as the housing commissioner allows.

Subclause 31(3) requires the applicant to include full details of the grounds on which their request for a review is made.

<sup>1</sup> Generally the applicant/s.

Subclause 31(4) gives the housing commissioner a discretion to either review the decision, or refer it to an advisory committee, for example, the Housing and Tenancy Review Panel, established by the housing commissioner. Once the committee has made a recommendation, the housing commissioner can accept, vary or reject the recommendation.

Subclause 31(5) specifies that the housing commissioner must give the affected person written notice of the decision within 28 days after the decision is made.

### **Process to assist applicant to lodge application for review**

When an applicant seeks information in person or by telephone about applying for a review of decision the Housing and Community Services officer will:

- give the applicant all relevant documentation which informs them about the review process;
- explain to the applicant verbally about the review process and ensure they fully understand what they are required to do, and the timeframe in which the application has to be lodged; and
- offer to help the applicant complete the application where necessary, or arrange for a support person to assist if that is what the applicant would prefer.

### **Documentation lodged with the review application**

2. Applicants should outline, in detail, the reasons why they consider the decision should be reviewed, and provide relevant information to support their case. The information might include:
  - new, relevant information;
  - information which the applicant believes may have assisted the original application, but may not have been included for consideration; or
  - information and/or circumstances that the applicant believes may have been overlooked by the original decision-maker.

### **What is a review?**

3. A review is a formal process where an applicant expresses dissatisfaction with a decision. It involves a complete re-examination of the applicant's application by an officer of a higher level than the original decision-maker, and who did not take part in the original decision.

Prior to undertaking a review officers should refer to the Delegations under the Public Rental Housing Assistance Program to ensure they have the appropriate delegation.

## What is the purpose of a review of decision?

4. There are two key components of decision review

**(1) Determine that the original decision was correct at the time it was made by deciding whether**

- the original decision was consistent with the relevant legislation and policy;
- the legislation and policy was interpreted correctly and fairly;
- the circumstances and all relevant information were fairly and properly considered and that nothing relevant was overlooked;
- only relevant information was taken into account; and
- there was no bias or prejudice on the part of the original decision-maker; and

**(2) Determine whether a new decision should now be made based on:**

- any new information provided since the original decision;
- any information previously provided but not given adequate consideration;
- any actions that should have been taken when making the original decision but which were not taken (such as the application of a relevant discretion)

*(The new decision may be to agree and action the request, refer the matter to the relevant work unit for reassessment, refer the matter to the unit manager for reconsideration or other options)*

## Outcome of decision

5. Once the review has been completed the reviewing officer will write to the applicant advising them of the decision. The following information is to be included in the letter:
- the reasons why the decision was made;
  - what circumstances were taken into account when making the decision;
  - the relevant legislation and policies that influenced the decision; and
  - the relevant information about the next level of review, where the request for review has been unsuccessful.

## Decision-making process

6. Each application for review must be considered on its merits in an impartial and unbiased manner. Where applicable, the onus is on the applicant to provide additional information which demonstrates that their circumstances warrant further consideration by the housing commissioner.

## General provisions

### ***Further information***

7. If the applicant provides additional information which may further establish their need to be considered as an eligible applicant, the application can be reassessed.

### ***False or misleading information***

8. Under the Program an applicant is not eligible for assistance if the application is false or misleading in any material way or if an applicant has arranged his or her financial affairs to obtain assistance under the Program.

### ***Review***

9. A decision made under clause 31 of the Program is a reviewable decision in terms of clause 30 of the Program.
10. *Any reference to "Housing ACT" in an operation guideline is a reference to Housing ACT being a section of the Community Services Directorate representing the housing commissioner.*

Dated this 4<sup>th</sup> day of May 2012

Natalie Howson  
Commissioner for Social Housing