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Foreword

Hitting the Roof is about the NSW Department of Housing treating people fairly in allocating public housing. It demonstrates that current practices are not fair because people from a non-English speaking background with disability are not receiving equitable access to public housing, despite being among the most disadvantaged members of the community. The report adds to the body of knowledge about the crisis in affordable accommodation in NSW and underlines the urgent need for realistic options to address this crisis.

The basic principle underpinning *Hitting the Roof* is that mainstream service agencies should provide services equitably to all eligible members of the community in NSW. Everyone on a low income should have an equal opportunity to compete for the limited public housing available: a person's ethnicity or disability should not be a barrier to receiving those services.

The case studies in this report are real stories about real people in our community. They indicate the barriers in getting access to public housing experienced by people from a non-English speaking background with disability, notwithstanding the goals and strategies set out in the Department's Ethnic Affairs Priorities Statement and its Disability Action Plan.

Hitting the Roof provides the Department of Housing with a host of low-cost strategies for redressing the current inequitable service provision. While it is indisputable that extra resources are needed, this report suggests how the Department can do better with the resources available, through consultation, participatory decision-making and non-discriminatory service provision.

The strategies suggested cover operational and policy areas such as staff recruitment and training; record-keeping; simplifying application forms; providing 'accessible' information to people about entitlements, appeal rights, housing options and assistance available; and widening the eligibility criteria to include refugees holding temporary protection visas.

In a multicultural community all of us have a stake in ensuring that public housing is allocated fairly. With this report the ball is now squarely in the Department's court.

Harry Herbert

Chair, NSW Government Social Justice Reference Group

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Summary of issues and recommendations

This report outlines the issues raised by people from a non-English speaking background (NESB) with disability about their dealings with the NSW Department of Housing (the Department) and our recommendations for resolving them. The recommendations are consistent with the Department's Ethnic Affairs Priority Statement 2000/2002 and its Disability Action Plan for 2000/2002. Most of the recommendations do not require additional resources.

MDAA is aware that the Department is not solely responsible for all issues relating to publicly funded housing in NSW, for example, the Department of Community Services funds agencies to provide supported accommodation for some people at risk of becoming homeless. We are also aware that options other than public housing need to be available for people from a NESB with disability. Despite that, it is clear from our work that people from a NESB with disability are not getting equitable access to public housing and the services provided by the Department. The aim of this report is therefore to highlight the reasons for this and to suggest strategies for achieving equitable access to public housing for people from a NESB with disability.

Issues

With approximately 100,000 people on the waiting list there is not enough public housing in NSW to meet the demand. Many people on low incomes cannot afford private rental housing, especially in areas of high demand, close to services and community supports. Those particularly disadvantaged in finding affordable housing are new migrants without the support of established communities here and refugees with a 'temporary protection visa'.

The experiences of people from a NESB with disability who have approached MDAA for assistance in dealing with the Department demonstrate that we are not getting equal access to the limited public housing available. Case studies illustrate these difficulties and point to the reasons we encounter more difficulties than other people in dealing with the Department. As well as current issues, MDAA is also concerned that some of the housing reforms announced by the Minister in February 2002 will exacerbate the problems they are intended to resolve.

Current difficulties include a lack of understanding and knowledge on both sides: by staff of the Department about the effects of disability or culture on a person's housing needs, and by people from a NESB with disability about the housing 'system' in NSW. This means that applications for priority housing are not approved when they should be, and that people are removed from the housing waiting list unfairly when they disagree with the Department's assessment that its offers of housing were reasonable in their circumstances.

Other issues include:

- complicated and confusing application forms;

- procedural problems such as poor-record keeping and inconsistent practices;
- unfair interpretations of the Department's 'two reasonable offers' policy;
- delays in getting modifications and maintenance carried out;
- intrusive investigations of fraud allegations against tenants;
- unjust effects of the Department's 'good neighbour policy'; and
- privacy problems.

MDAA is not arguing for 'special rights' for people from a NESB with disability: just equal access to public housing. We believe the Department can do more to ensure equitable access within current resource constraints. We would like to work with the Department to resolve the difficulties outlined and we make the following recommendations to achieve that end.

<i>Recommendations</i>	<i>Resources</i>
Department's EAPS Plan and Disability Action Plan	
1. The Department should ensure that the initiatives and strategies in its EAPS Plan and Disability Action Plan apply in an integrated way to people from a NESB and people with a disability. Any initiatives applying to people from a NESB with disability should be referred to in both plans and their implementation should be closely monitored.	Staff time
2. The current Disability Action Plan needs to be strengthened regarding mental health. The Department should engage in appropriate and effective partnerships between mental health services, public housing applicants and tenants from a NESB with mental health problems and their advocates, to ensure that these applicants/tenants don't fall through the gaps between services and miss out on public housing opportunities as a consequence.	Staff time
Housing reform proposals	
3. The Department should consult people from a NESB with disability and their advocates about the implications of each of the reforms announced in February 2002 to determine the safeguards and supports required before the reforms are implemented, including: <ul style="list-style-type: none"> • renewable leases, market rate bonds, tenancy guarantees and neighbour aides; and • the support services proposed for the assisted tenancies pilot program and for people who are homeless - support packages should be negotiated with the individual tenants concerned and their advocates. 	Staff time
4. The Department should ensure that people from a NESB with disability have an equal opportunity to participate in any pilot of the proposed reforms.	Staff time
Information to clients	
5. In consultation with people from a NESB with disability and their advocates, the Department should devise an information campaign to provide information on: <ul style="list-style-type: none"> • housing options available in NSW; and • the various forms of assistance available from the Department. 	Staff time, campaign costs
6. Any future information campaigns by the Department should: <ul style="list-style-type: none"> • allocate an equitable proportion of funds to provide information to clients from a non-English speaking background; and • include a NESB information dissemination strategy. 	Staff time

<i>Recommendations</i>	<i>Resources</i>
Staff recruitment and training	
<p>7. The Department's employment policy should ensure that staff reflect the cultural and linguistic backgrounds of the community they work with.</p> <ul style="list-style-type: none"> To achieve this goal, the Department should actively seek new staff with bilingual and bicultural skills and investigate using the Community Language Assistance Scheme (CLAS) allowance as a mechanism to value and make use of the skills and knowledge of bicultural/ bilingual staff. Until this goal is achieved, the Department should employ Ethnic Community Liaison Officers and Disability Liaison Officers to build knowledge within communities and to assist staff to become more responsive to those communities. 	<p>Staff time</p> <p>Staff time, additional resources</p>
8. The Department should give high priority to staff training and staff development. Analysis of complaints by type/ region/ local office would indicate the immediate priorities for training and development.	Staff time
9. The Department should ensure that cultural competency and disability awareness are key components in training programs for all recruits and current experienced staff and are part of the staff appraisal processes.	Staff time
10. The Department should ensure that training courses for Client Service Officers include components to increase skills in identifying and taking into account the effects of an applicant's disabilities and cultural background on their housing needs, to avoid unreasonable offers being made.	Staff time
11. The Department should ensure that training for Client Service Officers explains policies relevant to clients from a NESB with disability, eg, the Special Assistance Subsidy.	Staff time
<p>12. Training courses for the Department's Client Service Officers who interview applicants should cover:</p> <ul style="list-style-type: none"> the options available for NESB clients with disability who need additional assistance in providing information required to complete their applications, eg, referral to a specialist Senior Client Service Officer; and how to identify when an interpreter is needed and how to use interpreters appropriately. 	Staff time
Staffing resources	
13. The Department should provide funding to enable staff to obtain timely, accurate advice about disability and cultural issues affecting their clients' housing needs. This advice could take various forms, eg, a hotline which staff could phone for advice; or a panel of consultant professionals and ethnic community workers (on a fee for service basis).	Staff time, Consultants' fees

<i>Recommendations</i>	<i>Resources</i>
14. The Department should ensure that adequate numbers of specialist Senior Client Service Officers are available to assist branch office Client Service Officers who are dealing with clients from a NESB with disability.	Staff time, additional resources
Refugee access to public housing	
15. The Department should expand the eligibility for public housing to include people who hold temporary protection visas (TPV).	Staff time
Letters, Records, Telephones, Information	
16. The Department's letters should clearly set out the changes in circumstances for which applicants or tenants must notify in writing, including change of address or phone number. These requirements could be reinforced by providing a kit of simple colour coded forms for different purposes, eg, change of address; change of income; change in health circumstances.	Staff time, printing costs
17. The Department should keep a plain English, up-to-date summary of a client's record on file, available to clients on request.	Staff time
18. The Department should standardise its style for signing letters to include a signature block with the officer's name typed under their signature and their contact phone number.	Staff time
19. The Department's managers should ensure that telephones are answered by staff or answering machines and that staff return messages from clients and their advocates.	Staff time
20. The Department should implement procedures, eg, a check list, to ensure that staff notify applicants in writing of the reasons for rejecting their application for housing, including priority housing. The reasons should be explained clearly in plain English. Rejection letters should include clear information about the applicant's right to appeal to the Housing Appeals Committee (HAC).	Staff time
21. Where a client has appealed to the HAC, the Department should send them a copy of the internal review report containing the reasons for the decision and indicating the information taken into account by the reviewing officer, before the HAC hearing.	Staff time
Special Assistance Subsidy	
22. The Department should increase funding for the Special Assistance Subsidy to clients with a disability to enable them to obtain and remain in private rental housing if this is more appropriate to their needs than public housing.	Staff time, additional resources

<i>Recommendations</i>	<i>Resources</i>
Other options for assistance	
23. The Department should set up a forum for ongoing consultation with clients from a NESB with disability and their advocates to determine suitable housing options to meet their needs.	Staff time
Application forms and information requirements	
24. The Department should provide adequate funding to assist applicants from a NESB with disability to complete the housing application forms. Assistance could take various forms, eg: <ul style="list-style-type: none"> • direct funding to advocacy groups to assist these clients; and • implementing a joint project with advocacy groups – with Departmental officers visiting their premises fortnightly or monthly to help applicants complete forms; to explain what additional information is required; and to find out the difficulties applicants are experiencing with the application forms. 	Staff time, costs of advocate assistance
25. The Department should review the housing application form to simplify the terminology used and clarify what information is required.	Staff time
26. The Department should explain to applicants from a NESB with disability that they will have to provide very detailed information to substantiate their particular housing needs, and the Department should give examples of the kind of information required.	Staff time
27. The Department should develop concrete, relevant multilingual information and resources for housing applicants about disability; rights; services; entitlements; and their requirements, eg, by implementing a joint project with advocacy groups to produce fact sheets for applicants for priority housing, including applicants from NESB with disability.	Staff time, printing costs
Two reasonable offers policy	
28. The Department should act urgently on the HAC's suggestion that it implement less drastic penalties for rejecting two housing offers.	Staff time
Modifications and repairs	
29. The Department should explore partnerships with agencies who provide individual modifications and adaptations to people with disabilities to ensure that requests for modifications or repairs from tenants from a NESB with disability are assessed by such agencies and treated with the priority they deserve.	Staff time
30. The Department should consult public housing tenants from a NESB with disability to determine the nature of modifications required to accommodate their housing needs.	Staff time

<i>Recommendations</i>	<i>Resources</i>
Tenant disputes and allegations: good neighbour policy	
31. The Department should ensure that training for officers who investigate fraud allegations includes cultural competency and disability awareness.	Staff time
32. The Department should implement the recommendations in the Tenants' Union of NSW report <i>Unjust and Inappropriate</i> ¹ .	Staff time
33. The Department should consult clients from a NESB with disability and advocacy agencies to determine ways to avoid conflicts arising and to provide more appropriate support when they do arise.	Staff time
34. The Department should call estate meetings regularly to discuss general issues of concern to tenants, including tenants from a NESB with disability.	Staff time
Privacy	
35. The Department should implement management procedures to ensure that all staff respect clients' privacy in the ordinary course of their work activities.	Staff time
36. The Department should ensure that clients' medical reports and assessments are kept in sealed envelopes and that they are not available to staff who have no reason to deal with the client's file.	Staff time
37. The Department should ensure that personal information about clients (applicants or tenants) is stored and destroyed in accordance with privacy and archives laws.	Staff time

¹ See the Appendix for details of this report.

1. Introduction

The Multicultural Disability Advocacy Association of NSW (MDAA)² provides advocacy services to people from a non-English speaking background (NESB) with disability, their families and carers. Too often we encounter individuals and families whose basic housing needs have not been met. The reasons include:

- difficulties in finding affordable private sector housing;
- people from a NESB with disability lack knowledge about the housing 'system' in NSW, including public housing options available and how to access them; and
- some service providers (including the NSW Department of Housing) do not fully understand or take into account the effects of disability and/or culture on the person's housing needs.

This report aims to:

- provide information about the difficulties people from a NESB with disability experience in dealing with the NSW Department of Housing (the Department); and
- propose some concrete, workable strategies for resolving these difficulties.

It results from MDAA advocates' frustration in dealing with the Department on behalf of people from a NESB with disability. In the past three years we acted as individual advocates for 469 consumers. The broad category 'accommodation' was the most frequent issue requiring advocacy, with lack of access to accommodation, including public housing, one of the five issues consumers raised most often. Some consumers had other kinds of difficulties with accommodation and related issues (eg, group homes) but they are not the subject of this report.

Many people sought our assistance in 2000, 2001 and 2002 because the Department rejected their applications for priority housing or offered unsuitable housing. Typical problems included:

- being rejected for priority housing because the Department did not fully understand the nature of the person's disability, or expected the person to rely on family members for support to an unreasonable extent ('they look after their own');
- being offered unsuitable housing because the Department did not understand the effects of the person's disability, especially psychiatric and cognitive disabilities, or the effects of culture on the person's housing needs;
- being threatened with transfer or eviction as a result of the Department accepting vexatious allegations, either without thoroughly investigating them, or because the Department did not take into account the effects of the person's disability or culture during its investigation of the allegations.

² See the Appendix for more details about MDAA.

The examples³ in this report are based on information from MDAA consumer files for 2000, 2001 and 2002. Some details have been changed to protect the consumers' privacy, but the nature of the difficulties outlined and the Department's responses are unchanged. The problems outlined have continued throughout 2002.

Zoran

Zoran lives in public housing with his son who has schizophrenia. Zoran applied for a transfer to somewhere quieter because his son was very disturbed by neighbourhood noise. The Department approved the transfer request but offered Zoran a flat above some shops on a main road. Zoran rejected the offer as unsuitable, because his son's illness meant he would not be able to tolerate the noise level there.

Chapter 2 provides background information relevant to the issues raised in this report and refers to other relevant reports prepared by MDAA and other agencies.

Chapter 3 comments on aspects of proposed changes to public housing announced by the Minister for Housing on 14 February 2002.

Chapters 4 to 6 consider some of the Department's stated policies and MDAA consumers' experiences of how they apply in practice. These chapters:

- outline MDAA consumers' experiences of problems in dealing with the Department in the years 2000, 2001 and 2002;
- set out initiatives in the Department's Ethnic Affairs Policy Statement (EAPS Plan) for 2000/2002 and strategies in the Department's Disability Action Plan for 2000/2002; and
- suggest some practical strategies for overcoming the difficulties outlined.

Chapter 4 relates to *common* difficulties experienced by people from a NESB with disability, regardless of whether they are applying for public housing, are public housing tenants, or have had their application rejected.

Chapter 5 considers the difficulties experienced by people from a NESB with disability who are *applying* for public housing, particularly priority housing.

Chapter 6 outlines the difficulties experienced by people from a NESB with disability in their dealings with the Department *after* they have become public housing tenants.

³ As most MDAA consumers experience more than one problem, the examples do not always fit neatly into one category but could be included under several of the different chapter headings in this report.

2. Background

People from a NESB with disability comprise one of the most disadvantaged and marginalised groups in the community. Our report *Less Talk, More Action* documents the needs and difficulties of this group in accessing services available to other members of the community and indicates that they have not been adequately understood by government, community and private sector service providers. *Less Talk, More Action* suggests strategies for resolving these difficulties and estimates the number of people affected as follows.

NESB + disability: statistics

There are no reliable statistics available about the incidence of disability within NESB communities. The data available are limited and the different definitions used when referring to 'NESB' create many problems. MDAA has used data from the following sources to derive the statistics set out below:

- Australian Bureau of Statistics;
- NSW Department of Ageing, Disability and Home Care (DADHC); and
- Department of Family and Community Services.

MDAA estimates that about 4.6% of the national population and 3.5% of the NSW population (217,396 people) have a disability and speak a language other than English at home⁴.

Ramona

Ramona is separated but living in the same house as her husband, her 3 daughters and her parents. She applied for priority housing in 2001 because she needed to find safe, secure accommodation to escape her husband's continuing violence. She has severe depression and finds it very difficult to care for her daughters in her current housing.

The Department rejected Ramona's application but approved her for 'wait turn' housing and offered her Rentstart⁵ to obtain private rental housing while she waited.

Ramona's depression prevents her from approaching real estate agents to find private rental housing. She also knows she would be ostracised and harassed by her relatives and friends in her community if she moved out to private rental housing with her children. When she filled in the priority housing application form Ramona did not know she needed to explain these cultural issues (self-evident to her) or set out the effects on her daughters of the violence they were witnessing, as well as the effects it was having on her. Her disability is such that she was unable to gather all the medical information she needed from her doctors or statements in support of her application by agencies who were aware of her circumstances. She was therefore unable to persuade the Department that she could not meet her housing needs through private rental housing or that her needs were more urgent than other women with violent husbands.

Ramona is considering an appeal to the Housing Appeals Committee.

⁴ See the Appendix for details of how these statistics were derived.

⁵ 'Rentstart' may provide financial assistance for bond, rent in advance, service connection fees and removal expenses, depending on the applicant's circumstances.

Other relevant reports

Several reports within the past three years have highlighted the issues facing people from a NESB with disability in obtaining and retaining secure, affordable housing. They describe similar difficulties to those experienced by people who have sought assistance from MDAA.

Hitting the Roof draws on information contained in the following reports⁶ and publications:

- *Less Talk, More Action*: MDAA
- *Caring for Mental Health in a Multicultural Society*: NSW Health
- *NESB Women's Access to the Private Rental Market*: Immigrant Women's Speakout
- *Unjust and Inappropriate – A response to the operation of the Residential Tenancies Amendment (Social Housing) Act 1998*: Tenants' Union of NSW
- *More Than a Roof Over Their Heads: Housing Needs of Single Refugee Women with Large Families from the Horn of Africa Residing in Sydney's Inner West Area*: Inner West Migrant Resource Centre
- *Annual Overview 2000/2001: Housing Appeals Committee (HAC)*
- *Inquiry into Disability Services*: NSW Parliament's Standing Committee on Social Issues
- *Housing Report 2002*: Botany Migrant Resource Centre

Prasad

Prasad has multiple disabilities (physical, sensory and intellectual) and lived with his parents in private rental accommodation. In 2001 Prasad's mother applied for priority housing because of her husband's continuing violence. She had been to the police in the past but their actions had not stopped the violence. She had no money or support, felt very isolated and was struggling to meet Prasad's needs. She obtained letters of support for her application from social workers aware of her circumstances.

The Department rejected her application. The officer concerned told her that her situation appeared no worse than many other women who say they are living in violent domestic circumstances. He asked why she had not moved out of the house or been to the police. Prasad's mother told him she had no money; a son with multiple disabilities to care for; nowhere to go; she would be rejected by her community if she 'chose' to leave her husband; and that the police had obtained an apprehended violence order in the past but this had not stopped her husband's violence. She did not believe it would achieve anything to complain to them again.

Shortly after the Department rejected his mother's application, Prasad's father beat her so severely that she required urgent treatment in hospital. Prasad was very distressed by the violence and his mother's absence. The Department approved her application for priority housing after that incident.

⁶ See the Appendix for details about each of these reports.

Department of Housing: operating environment, strategies, plans

It is clear that the Department is operating under very difficult circumstances. Increasing demands for public housing and other forms of assistance (eg, subsidies to enter or remain in the private rental sector) have not been adequately met in recent years by the Department's ageing housing stock, decreased building program and reduced Commonwealth funding⁷. Waiting lists for public housing are very long in areas of high demand, where many approved applicants wait for well over ten years. Applicants with a disability may be approved for priority allocation but disability alone does not guarantee approval.

Department's 2000/2002 Ethnic Affairs Priorities Statement and Disability Action Plan

Against this background the Department published its updated Disability Action Plan in July 2001 and Ethnic Affairs Priorities Statement (EAPS Plan) in September 2001. These plans outline the Department's goals and strategies for the period 2000/2002 for improving opportunities for people with disabilities to gain access to housing assistance and for improving service delivery to clients from diverse cultural backgrounds.

One of the difficulties highlighted by these plans is that they classify people as if they are from a NESB or have disabilities, but not both. The plans set out specific initiatives and strategies for one group or the other but are not expressed in a way that naturally encompasses the needs of people who are from a NESB with disability. People whose circumstances warrant the initiatives outlined in both plans may end up falling between these initiatives into the 'too hard basket'.

This problem is not confined to the Department of Housing: it affects many people from a NESB with disability whose needs and circumstances do not fit neatly into one set of programs and services (for people from a NESB) or the other (for people with disability). 'Whole of government' approaches and partnerships do not appear to have resolved this issue successfully to date. Our report *Less Talk: More Action* identifies 'whole of government ping-pong' as one of the negative results of the whole of government initiative.

(See Recommendation 1)

Another aspect of the Department's Disability Action Plan is that it does not adequately take into account the difficulties experienced by people with mental health problems in gaining access to housing services. The Department relies on its agreement with the NSW Department of Health (NSW Health) to ensure that people receive appropriate housing linked to mental health support services. This ignores the fact that people from a NESB do not have equitable access to NSW Health's services because we don't know the services exist and because the services do not adequately accommodate linguistic and cultural diversity⁸.

⁷ The 2002-3 NSW Budget allocated an extra \$16 million to housing. While this represents an increase of 2.5% on the 2001-2 Budget it was still less than the annual inflation figure because of Commonwealth government funding reductions.

⁸ See the Appendix for details of NSW Health's 1998 report *Caring for Mental Health in a Multicultural Society*.

This means that people from a NESB with mental health problems are more likely to miss out on getting access to public housing with the support services required because they are not connected to crisis teams or other health services. Similarly, people from a NESB with disability do not have equitable access to the disability support services provided by DADHC for the same reasons. (See Recommendation 2)

3. Housing reform proposals: February 2002

At a 'Future Directions in Social Housing' seminar on 14 February 2002 the NSW Minister for Housing announced a package of housing reforms to be introduced over the next three years. The major changes to public housing announced were:

- introduction of bonds equivalent to four weeks market rent for all new tenants;
- introduction of renewable fixed term leases for new tenants, replacing secure tenure;
- tenancy guarantees of \$1000 to landlords to assist people without a rental record into the private rental market;
- adoption of a 'homelessness protocol' by all government agencies, linked to existing services for homeless people;
- assistance to older people and people with disabilities, eg, volunteer neighbour aides and an assisted tenancy scheme;
- a scheme allowing for shared ownership of homes between the Department and tenant;
- a self-build scheme where the tenant's labour will be valued as equity in the property;
- a scheme whereby the government will provide a back-up guarantee to commercial lenders for loans they make to assist low-income earners into the housing market.

MDAA is concerned that some of these 'reforms' will impact negatively on people from a NESB with disability, particularly the introduction of bonds at private sector market rates and loss of tenure for new public housing tenants. The following comments address some aspects of the proposed reforms.

Homelessness

MDAA welcomes the range of measures proposed to assist people who are homeless. They should assist people from a NESB with disability who have become homeless, so long as the support services required are developed in consultation with the individuals concerned and agencies which advocate on their behalf.

Renewable leases and bonds

More contentious aspects of the reform proposals are the introduction of renewable leases and market rate rental bonds for all new⁹ public housing tenants. These proposals exemplify the growing convergence of the public and private sectors, with the Department taking on the characteristics of private landlords. Community sector critics¹⁰ argue that the Department should be setting the benchmarks for housing security and affordability for people on low incomes rather than imitating the private market's lack of security and affordability. As these

⁹ New tenants will include some existing tenants seeking a transfer.

¹⁰ 'Qualified support for housing reforms' Shelter NSW press release 14.2.02; "Public housing 'reforms' erode tenants' rights" NSW Tenants Union News 19.4.02; 'Housing reform package: positive signs but also costs for disadvantaged people' NCOSS media release 14.2.02.

critics have shown¹¹, the proposed renewable leases and bonds indicate a fundamental philosophical shift in government thinking away from providing secure, affordable housing to people on low incomes.

It appears contradictory to provide Rentstart for people entering the private rental market while introducing market rate bonds and renewable leases to public housing tenants. The need for Rentstart only arises because people are unable to afford market rate bonds and other moving expenses as well as market rent. Approximately 90% of public housing tenants are receiving pensions and benefits and although the proposed bond can be paid off over time it will have a huge impact on these people with low or fixed incomes. Market rate bonds will also create inequitable differences not only between new and existing public housing tenants, but also between new tenants who need to live in high rent areas and those who can live where rents are lower.

MDAA consumers' experiences demonstrate that people from a NESB with disability are often not in a financial position to pay market rate bonds. Most receive low incomes but require secure, affordable housing in high rent areas close to medical and therapeutic services and culturally appropriate community support.

Renewable leases with no security of tenure will be particularly detrimental to tenants from a NESB with disability as it will be much easier for the Department to get rid of people regarded as 'difficult' tenants, especially those with mental health problems. The Department's fact sheet states that it will consult stakeholders about the implementation of renewable leases and that an independent appeals process will be available. Notwithstanding these measures it is easy to see that vulnerable people in public housing will become even more vulnerable to losing their accommodation, especially tenants regarded as 'difficult'. The experiences of Franco, Maria and George outlined in Chapter 6 indicate that it is the harassed 'victim' who is likely to lose their housing as the outcome of an investigation.

MDAA is concerned that most people from a NESB with disability who receive notice that the Department will not renew their lease will assume that there is nothing they can do about it because they will not know about their right to appeal. In our view this 'reform' is unnecessary as the Department already has the power to evict tenants through the Consumer Trader and Tenancy Tribunal (CTTT)¹².

Vulnerable people need more support, not threats to their housing security. As *NESB Women's Access to the Private Rental Market* indicates¹³, bonds, repairs, condition reports, termination notices and rent increases are the most common areas of advice required. In our view the Department has an obligation to provide information and advice to people on low incomes, including people from a NESB with disability, about the implications of the proposed reforms. (See Recommendation 3)

¹¹ For details of the arguments against the various proposed reforms see the websites www.ncoss.org.au and www.tenants.org.au.

¹² Until 25.2.02 the Residential Tenancies Tribunal (RTT) performed such functions.

¹³ See page 5 of *NESB Women's Access to the Private Rental Market*.

Assisted tenancies

It is not clear whether renewable leases and bonds will apply to people participating in the assisted tenancy scheme, another of the reform proposals. This pilot program between the Department, DADHC and the Centre for Mental Health will provide support 'packages' for 40 clients who live in or who will move into public and community housing and whose tenancy depends on getting the support they need. It will also be interesting to see whether any of these clients are from a NESB. To operate equitably the pilot program for 40 people should include at least 8 people from a NESB. (See Recommendation 4)

Tenancy guarantee

Similarly, MDAA is concerned about the proposed tenancy guarantee for private landlords in lieu of a bond. This is intended to assist people who cannot get into private rental accommodation because of discrimination or a lack of rental history. As indicated below, people from a NESB have many misconceptions about private rental arrangements. Unless the Department educates tenants about these matters, unscrupulous landlords and agents could easily exploit the guarantee by finding the tenant at fault for pre-existing conditions. Tenants with language difficulties and disability, particularly intellectual disability, brain injury or mental health problems, are especially vulnerable to such exploitation.

Neighbour aides

Under the proposal to introduce neighbour aides public housing tenants will receive rent rebates if they volunteer to provide 'friendly assistance' to older people and people with disabilities, to assist with basic tasks such as putting out the garbage and contacting health and social services. The Department's fact sheet states that it will screen and train volunteer aides.

The NSW Tenants Union has expressed concern about potential abuse and loss of privacy for vulnerable tenants if the government transfers its responsibility for providing professional support to a volunteer scheme. MDAA shares these concerns. It appears inconsistent to be introducing assisted tenancies with the extensive support services they will require and simultaneously withdrawing services from other vulnerable public housing tenants. People from a NESB with disability are among those who run the highest risk of abuse from this scheme. How will the Department screen out potential abusers and busybodies?

4. Dealing with the Department: common difficulties experienced by people from a NESB with disability

MDAA consumers report common difficulties in their dealings with the Department, whether they are applying for public housing, or have succeeded and are now tenants, or have had their application rejected. Ordinary difficulties faced by other public housing applicants and tenants are intensified for applicants/ tenants from a NESB with disability because of limited English language skills; the housing 'system' here operates differently from the one in the person's home country; the nature and effects of the person's disability; and cultural barriers.

This chapter outlines these common difficulties and makes recommendations for moving the issues forward in practical ways, taking into account the Department's EAPS and Disability Action Plans, the current environment in which extra Commonwealth funding for public housing appears very unlikely, and the housing reforms announced in February 2002.

Andra

Andra is a refugee who lives with her husband and three children in a 2 bedroom private rental unit. Her husband was tortured before escaping their home country and requires treatment for the traumatic effects it has had on him. Andra also suffers depression as a result of her husband's experiences and his current violent behaviour towards her and the children when he is distressed. The family depends on public transport and maintaining close links with members of their community who live in their neighbourhood.

The Department accepted Andra's priority housing application but offered accommodation in a suburb several kilometres from the family's current neighbourhood. Andra rejected the offer, knowing her husband would not cope with this change because of his mental health problems. The Department offered another property which Andra believed was also unsuitable to her husband's needs (an upstairs unit instead of a house - this would provoke bad memories of his home country and exacerbate his mental health problems). The Department then removed Andra's name from the housing register¹⁴.

Andra's family was accepted by a counselling service who were willing to provide counselling when their housing problem had been resolved and they had settled in. The service told her there was little point in starting counselling before then.

With advocacy assistance Andra persuaded the Department to cancel the offers already made and put her name back on the register. She was able to explain more effectively what her husband's housing needs were and the Department made a suitable offer which she accepted.

Departmental staff lack knowledge/ understanding of disability and cultural differences

MDAA consumers' experiences demonstrate that some Departmental staff lack knowledge or understanding of the reality of a person's disability and culture and the effects they have on

¹⁴ Removing a person's name from the register means they are no longer eligible for a housing offer.

the person's housing needs. Culture may also affect a person's actions and reactions in some circumstances, as Raquel's experience (below) indicates. Some Departmental staff appear not to understand that the person's behaviour results from their disability, eg, it may be unreasonable to expect a person with a mental illness to walk away calmly from the counter after being told that the Department doesn't have a place for them.

These problems are exacerbated by language difficulties, where both staff member and the person from a NESB with disability may think they understand each other but in fact they don't. As the HAC required interpreters in 43% of appeals last year it would be interesting to know the percentage of clients for whom the Department uses interpreters or bilingual staff. (See Recommendations 7 and 12)

Lack of understanding of disability and cultural differences results in Departmental officers:

- under-estimating the needs of tenants and applicants for public housing;
- failing to understand why private rental housing is unsuitable for some applicants;
- making unsuitable and unreasonable offers of housing;
- refusing to approve transfers;
- providing conflicting information about procedures and options available to applicants or tenants;
- unwittingly exacerbating tensions and misunderstandings between the Department and its clients, and between public housing tenants.

(See Recommendations 8 and 9)

Nadia

Nadia has mental health problems which are exacerbated by occasional drug or alcohol abuse. She lived in a public housing unit but wanted to move back to her parents because she felt isolated and lonely. Nadia's relationship with her parents is fragile: sometimes they are very supportive, but at other times they cannot cope with the care her disability requires at the time.

The Department told Nadia it would remove her name from the housing register when she moved back to her parents. With advocacy assistance Nadia persuaded the Department to leave her name on the register for a few months in case her relationship with her parents broke down after she went back to live with them. Past experience indicated that this was likely to occur.

Department's EAPS Plan and Disability Action Plan

The experiences outlined above highlight the need for the initiatives set out in the Department's EAPS Plan relating to recruitment, staff training and language services and the strategies in its Disability Action Plan regarding service delivery to be implemented.

The Department's *EAPS Plan* sets out the following initiatives:

- continue to review and update training programs related to ethnic affairs issues;
- continue with the provision of 'People, Culture and Communication' training to all staff;
- further improve staff assessment skills when interviewing people with complex needs;
- ensure client service staff are aware of local ethnic affairs issues with service delivery implications;

- explore options to increase recruitment of bilingual client service staff;
- provide access to targeted development opportunities and/ or bridging programs for EEO (equal employment opportunity) group members;
- improve data collection on the usage of language services by clients; and
- monitor the effective and efficient provision of interpreter services to the Department by the contracted agency.

The Department's *Disability Action Plan* sets out various strategies to overcome a number of barriers identified, including variability in the level of awareness of disability issues across the Department's staff; the fact that not all staff have been exposed to working with or providing service to people with disabilities; and the need to improve entry level training modules to include improved protocols about how to work with and provide services to people with disabilities. These strategies include:

- reviewing/ updating the disability awareness training program for staff;
- ensuring that suitable training products are identified for use in training programs to ensure their appropriateness to people with diverse types of disabilities; and
- increasing awareness/ sensitivity to the needs of people with disabilities by contractors and technical staff.

Progress

It would be helpful to know the extent to which the Department has implemented these strategies, for instance:

- what percentage of staff has attended the training courses and made links with local agencies;
- what percentage of training programs has been reviewed and updated;
- what initiatives the Department has taken to improve staff assessment skills when interviewing people from a NESB with complex needs, including those with disabilities;
- what percentage of Client Service Officers is bilingual;
- what percentage of staff from a non-English speaking background has been provided with access to development opportunities and bridging programs;
- what action the Department has taken to improve data collection on the use of language services;
- when the disability awareness training module was last updated;
- when the suitability of training packages was last assessed; and
- what percentage of Client Service Officers and technical staff has attended training programs on disability awareness.

Lack of empathy

MDAA advocates who visit the Department's offices with consumers sometimes have to spend considerable time putting the consumer at ease because the officer concerned is not sensitive to the consumer's culture or disability, or reacts negatively to their circumstances or the way they respond to questions. At other times the Department's response appears to depend on the staff member's mood.

Raquel

Raquel lives in a public housing estate with her two children and is separated from her husband. She has mental health problems including severe anxiety and depression. Raquel's husband lives with another woman from the same ethnic community and visits Raquel's home often to help care for the children. He stays over-night sometimes, especially if Raquel's mental health requires this.

The Department received information from a person who did not identify himself, alleging that Raquel was defrauding the Department regarding her rental subsidy by falsely claiming to be separated.

The Department investigated the allegations by visiting Raquel, who complained that the officers concerned were rude to her, threatened her and asked unnecessarily intrusive questions. They showed no sensitivity to the nature of her disabilities and no awareness of the cultural considerations which led Raquel and her husband to behave in ways that hid their separation from other members of their community (both parties would have been ostracised, particularly Raquel, who would also have been at risk of physical violence from members of her family).

Raquel had notified the Department before the investigation that one of her children had been involved in an accident and that she needed extra help from her husband as a result. The investigating officers told her there was no evidence of her notification on the Department's files. Raquel was extremely distressed and highly anxious that the Department believed she was trying to defraud them. Her mental health deteriorated as a consequence of the investigation.

The impression advocates have gained of some of the Department's staff is that they find crisis situations too hard, for example, where the person will become homeless without the Department's assistance. In these circumstances the Department is likely to respond by saying 'it's not our problem' and offering to put the person up in a hotel for a week or suggesting they go to a refuge. This does nothing to resolve the person's housing crisis, except in the very short term. Departmental officers also say 'you find a flat and we'll provide Rentstart'. Applicants from a NESB with disability are left in an impossible situation: real estate agents won't consider their application for a flat without a current address and also tell them they are not earning enough to rent a private unit that will accommodate their needs. People can become homeless as a result. Sylvana (see below) is in this situation.

(See Recommendations 13 and 14)

Sylvana

Sylvana has a physical disability which means she can't climb stairs. The Department accepted her application for priority housing but offered her a unit outside her preferred location because of a computer/ records error. The Department counted her rejection of this offer as a first rejection and removed her name from the priority list by mistake.

The Department subsequently told Sylvana she would have to re-apply for priority housing. She did this. Three months later the Department told her their computer wouldn't accept her second priority application and that she should have filled out a relocation form instead. She did this. Meanwhile Sylvana became homeless because she could not afford to pay rent (the reason she applied for priority housing in the first place).

The Department told Sylvana they would provide the Special Assistance Subsidy¹⁵ (SA Subsidy) if she found another private unit to rent. None of the real estate agents Sylvana has visited will consider her application for a unit because she is homeless and her only income is her pension. The Department offered to pay for a hotel. Sylvana would rather they find her a private unit until permanent public housing is available to suit her needs.

Public housing is the community's housing of last resort. MDAA believes the Department has a responsibility to seek longer term solutions which prevent homelessness in individual circumstances. It is unreasonable to expect individuals from a NESB who don't understand the 'system' and who have the additional difficulties resulting from disability and culture, to find their own solutions when the Department, with all its resources, says it can't.

New migrants and refugees with no rental record or references and few financial resources find it particularly difficult to get into the private rental market. As *NESB Women's Access to the Rental Market* indicates¹⁶, newly arrived migrants (women and men) experience difficulties such as lack of adequate translated housing information, unfamiliarity with the legal system, discrimination and exploitation, and for many groups, overt racism. *Housing Report 2002*¹⁷ also indicates that people from NESBs experience difficulties in communicating with real estate agents, understanding leases, and renting private properties because of language difficulties and because of a lack of references and other relevant documentation.

(See Recommendations 5 and 6)

Increasingly, refugees with a 'temporary protection visa' (TPV) are even worse off. Refugees who would have been granted permanent residence before October 1999 are now being granted a TPV because of the Commonwealth government's current immigration policy to expand the circumstances in which TPVs are granted (and the length of the TPV) instead of granting permanent residence. TPVs qualify the person for permission to work; access to Medicare benefits; and a special benefit from Centrelink (less than the unemployment benefit) if the TPV holder meets the Centrelink criteria. TPV holders, including those with disability, are not eligible for Commonwealth government assistance for accommodation (other refugees are). They are also not eligible for public housing in NSW.

It is not clear why the Department treats these refugees differently when their housing needs are as great as holders of permanent residence visas. It appears that the Department's policy simply follows the Commonwealth's immigration policy, regardless of the fact that the Department is the community's last resort for meeting housing needs.

MDAA does not see any reason for the NSW government to follow the Commonwealth's lead in making discriminatory policy decisions concerning refugees. (See Recommendation 15)

¹⁵ This subsidy is described in detail in Chapter 5 under the heading 'Public versus private sector housing: options for assistance'.

¹⁶ See page 10, *NESB Women's Access to the Private rental Market*.

¹⁷ See page 2, *Housing Report 2002*.

Department's EAPS Plan and Disability Action Plan

The experiences outlined above highlight the need for the initiatives in the Department's EAPS Plan regarding service delivery, and information, education and communication; and the strategies for promoting positive community attitudes set out in the Department's Disability Action Plan to be implemented.

The Department's *EAPS Plan* contains the following initiatives:

- continue to improve service delivery to culturally diverse clients;
- evaluate tenancy management practices to ensure that these are culturally sensitive;
- ensure advice lines are responsive to local demographic needs;
- ensure client service officers are aware of changes to immigration policies and procedures;
- continue to positively promote the ethnic diversity of the Department's client base;
- increase linkages with ethnic support agencies at local and corporate levels;
- ensure partnership arrangements with human services agencies are inclusive of cultural diversity implications; and
- work with other agencies to improve case management coordination for people with complex needs.

The Department's *Disability Action Plan* includes the following strategies:

- develop best practice guidelines to assist staff's effective approach to the provision of services to people with disabilities;
- publicise regional or local office strategies which are supporting tenants with a disability in the staff bulletin 'Friday Facts' and tenants' newsletter 'Your Home' as appropriate;
- consult people with disabilities and advocacy organisations and invite them to provide input to policy reforms and service directions; and
- increase community partnerships/ projects that will strengthen local people's interaction.

Progress

It would be helpful to know what action the Department has taken to implement these initiatives, for example:

- what services the Department has developed to address the gaps in services to people from a NESB;
- what action it has taken to increase linkages with agencies that support people from a NESB, including those with disability;
- what percentage of Client Service Officers has attended briefings on changes to immigration policies and procedures;
- whether the Department has developed and implemented best practice guidelines;

- what percentage of issues of 'Friday Facts' and 'Your Home' included information about regional or local service strategies supporting tenants from a NESB with disability;
- the extent of ongoing consultations the Department has with people with disabilities and advocacy organisations¹⁸; and
- what percentage of the community partnerships and projects implemented by the Department involves people from a NESB with disability.

Jose

Jose's daughter has autism which results in her being very active: she climbs on cupboards and tables and grabs things out of kitchen drawers including knives. The Department accepted Jose's request for a priority transfer but allocated him a house with a kitchen without any locks on the doors or cupboards.

After advocacy assistance for Jose the Department approved modifications to the kitchen and bathroom to accommodate his daughter's needs.

People from a NESB with disability don't know about or understand the housing 'system', including public housing and other assistance provided by the Department

The Immigrant Women's Speakout report *NESB Women's Access to the Private Rental Market* details structural barriers preventing NESB women from accessing the private rental market, including:

- language barriers, which prevent women from a NESB from accessing housing information and services and from understanding the importance of documents involved in private renting such as leases and condition reports;
- limited availability of housing information in community languages through real estate agents' offices or newspaper advertisements, which contributes to women from a NESB not understanding their rights and responsibilities or maximising their housing choices; and
- increased vulnerability when conflicts occur between landlords/ real estate agents and tenants because women from a NESB have a lower level of awareness and understanding of legal issues relating to private renting.

The Tenants' Union report *Unjust and Inappropriate* notes that many tenants struggle to comprehend their rights and obligations and that this leads to unnecessary disputes, with breaches of tenancy agreements often committed inadvertently or outside the tenant's control. The report argues that clear and accurate information on tenancy rights and responsibilities is particularly important for applicants and tenants in social housing.

¹⁸ A current project funded by the Department, managed by a steering committee including representatives from tenant associations and People With Disabilities (NSW) Inc. aims to develop, pilot and provide a one day workshop and manual for tenancy representative bodies in some regional and metropolitan areas in NSW, to enable participation of people with disabilities, and also to develop a web page and online resources. It will be interesting to see the results of the pilot project and whether it leads to ongoing participation of people with disabilities in the development of the Department's policies.

MDAA consumers' experiences echo the findings of these reports. For people from a NESB with disability, the availability of clear, simple information about the housing 'system' in NSW is essential to understanding the housing options available.

(See Recommendations 5 and 6)

Muhammad

Muhammad has a degenerative physical disability which currently affects the use of his legs (he uses a walking stick for stability). It is difficult for him to walk up and down stairs. The disability was diagnosed in mid-2000 but is progressing quickly. Muhammad is distressed because he used to be very fit and had an interesting job involving lots of physical activity. He is separated from his wife and lives with his two children in a private rental two bedroom town house with upstairs bedrooms. His daughter receives a student allowance and started a university course in 2002 and his son attends school.

Muhammad applied for public housing in 2000. The Department rejected his application because the family income, including his daughter's allowance (which barely covers her education costs), was above the allowed threshold. The Department later approved his application but did not approve priority housing, because Muhammad's diagnosis was recent and his disability had not progressed to a point where the Department believed his need to move was urgent. The Department did not accept that the stairs to the bedroom caused him so much difficulty that he needed other accommodation urgently.

In 2001 Muhammad's disability was getting worse so he applied for priority housing again. He relied on his daughter for emotional and practical support but she wanted to move out to prepare for university. The Department rejected his application because they believed the family could afford to rent housing in the private sector. Muhammad didn't know what he would do when his daughter moved out. He was extremely worried about his circumstances. With advocacy support in 2002 Muhammad obtained detailed medical assessments and was able to persuade the Department to grant him priority housing.

In addition, applicants may not understand the importance of very simple matters such as notifying the Department of any change of address or phone number. The Department's letters refer to the applicant's responsibility to notify a 'change of circumstances'. This could be interpreted as a change in circumstances relating to health or disability, not simply a change of address or phone number. In our experience strong advocacy is essential to navigating bureaucracies for people who are disadvantaged, particularly those who are additionally disadvantaged because of language difficulties and disability.

(See Recommendation 16)

Department's EAPS Plan and Disability Action Plan

The experiences outlined above highlight the need for the initiatives in the Department's EAPS Plan regarding service delivery and information, and education and communication, and the strategies in the Disability Action Plan for providing information about services.

The Department's *EAPS Plan* contains the following initiatives:

- further progress the development of a multicultural communication strategy;
- improve access to information and services by culturally diverse groups in country/ rural areas;

- ensure that information on the full range of products and services is accessible to culturally diverse communities; and
- utilise ethnic media/ local press to advertise changes to the Department's policies and services.

The Department's *Disability Action Plan* includes the following strategies:

- develop a strategy to promote the Disability Action Plan and ensure that the strategy includes details of how the plan can be made available in alternative formats on request;
- review all customer information on housing assistance options and client services to ensure formats are appropriate for people with reading or print disabilities;
- promote the Department's current practices to assist people with disabilities; and
- improve access to the Department's information and services by people who are hearing and/ or speech impaired.

Progress

It would be helpful to know what progress the Department has made in implementing these strategies, for instance:

- whether the multicultural communication strategy has been finalised: and how much and what information actually gets to people from a NESB as a result of this strategy;
- what projects the Department has undertaken in rural areas for culturally diverse groups;
- what proportion of information sheets on the Department's products and services has been translated into community languages and how many have been distributed;
- what percentage of changes to policies and services the Department has advertised through the ethnic media; and
- how many specialist Senior Client Service Officers have been appointed and whether they are accessible to staff and clients with disability in metropolitan and rural areas.

Hu-sien

Hu-sien is divorced and lives with friends in a different town from his ex-wife and two children, a son and a daughter. His son has an intellectual disability and mental health problems. Hu-sien applied for priority housing so he could have contact with his children on weekends.

After several months it became clear that the Department had lost Hu-sien's application and that he would have to apply again. The Department then rejected his application without waiting for Hu-sien to supply bank statements and letters of support from agencies involved in his son's care. After advocacy assistance the Department rescinded its decision and allowed Hu-sien time to gather all the information required.

Poor record-keeping

Public housing applicants and tenants suffer delays, inconvenience and lost opportunities when Departmental staff lose files, records or messages containing information they have provided. Examples of these difficulties include:

- applicants who notify the Department of a change of phone number or address discover later that the message was not recorded on the Department's computer or paper file, or passed on to the officer handling their application. They then discover that the

Department removed their name from the waiting list when it could not locate them at their old phone number or address;

- some officers' signatures are illegible, which makes it difficult for the applicant or their advocate to know whom they should contact to discuss the letter or to query an action or decision; and
- applications sometimes go from one office to another and applicants receive mail or telephone calls from more than one office about their application: this is very confusing.

These general problems are more difficult for people from a NESB with disability, particularly mental illness, intellectual disability, brain injury or other cognitive disabilities, for the following reasons:

- people may not know how to resolve the problem: communicating in English may be very difficult and if the person is unable to resolve it with a Client Service Officer, they are unlikely to know how to complain or pursue it to resolution through the Department's hierarchy;
- not speaking English well can be embarrassing and some people are too shy to contact the Department or argue with staff;
- people may feel very different and 'foreign' because of language, culture and disability: this leads to a lack of self-confidence, low self-esteem and perceptions that the person doesn't belong and is trying to get something that only Anglo-Australians are entitled to; and
- Departmental staff may be impatient or dismissive of a person because of the effects of the person's disability, lack of English or culture. Staff say 'why don't you bring a friend or relative with you' but the person may not want to involve friends or relatives and may be unaware of any alternative.

(See Recommendations 17 and 18)

Wahid

Wahid has a physical disability. The Department approved his application for priority housing. While waiting for a housing offer he changed his address and notified the Department by phone. Wahid waited for some time before contacting the Department again to find out when he could expect to receive an offer.

The Department told Wahid they had removed his name from the priority list when they did not receive a reply after writing to him at his former address to offer him housing. When he asked the Department to check their records they said there was no record of his contact notifying his change of address. With advocacy assistance Wahid persuaded the Department to restore his name to the priority housing list.

Department's Disability Action Plan

These experiences highlight the need for the complaints procedures in the Department's *Disability Action Plan*, which includes the following strategies:

- support clients with disabilities to access the Department's complaints and client feedback procedures;
- collect data and report on complaints; and

- conduct a staff climate survey to explore staff perception of discrimination: identify/ investigate issues.

Progress

It would be helpful to know what progress the Department has made in implementing these strategies, for instance:

- how many clients from a NESB with disability have used the Department's complaints procedures and what complaint issues they raised;
- what percentage of complaints comes from clients from a NESB with disability; and
- what issues the Department has identified/ investigated relating to clients from a NESB with disability and what action it has taken to address them.

Other procedural problems: confusing letters; wrong advice; phone contact

Computer glitches can have devastating effects on a person's life, as Sylvana's experience (page 23 above) demonstrates. Various other procedural problems also cause difficulties for the Department's clients. While these problems are difficult enough for anyone to cope with, for many people from a NESB with disability they create unnecessary complications in circumstances which may already be overwhelming.

Computer-generated letters are sometimes wrong, eg, they say the tenant has not paid their rent when they have. While the staff response is 'just ignore the letter', this makes some tenants, especially those with little English and psychiatric or cognitive disabilities, anxious or upset unnecessarily. How does the tenant know when to take the Department's letters seriously?

Another problem is that MDAA advocates and consumers often find the Department very difficult to contact by phone:

- the phones ring out without anyone answering;
- when the client or advocate leaves a message on an answering machine the Department's staff don't always return the call; and
- the Department's staff are unavailable to clients on Wednesdays until after 1pm.

(See Recommendation 19)

5. Getting into public housing

In MDAA's experience most public housing applicants from a NESB with disability meet the general eligibility criteria (age, residence, income and assets tests) but they often have difficulty getting approval for *priority* housing. If they can't get this approval their name is registered on the housing register and they join the general waiting list for 'wait turn' housing in their preferred location.

Priority housing

Applicants from a NESB with disability who are *not* approved for priority housing usually face very long waiting periods before the Department makes an offer of housing in the preferred location as we usually need housing in high demand areas close to disability and culturally appropriate community supports. This enables people from a NESB to:

- keep in touch with family and friends for emotional and material support;
- maintain cultural identity by going to meeting places, shops and the hub of social activities for our particular community;
- stay in touch with news of our home country;
- develop and maintain a sense of familiarity, belonging, security and ownership which is very affirming for a person trying to put down new roots; and
- access medical and therapeutic services to manage our disability.

Ha

Ha is divorced, lives alone and has a degenerative physical disability affecting her mobility. Her parents and siblings all live overseas. Her two young children live with her ex husband and his parents, who are angry with Ha because they were unaware of her disability when they arranged the marriage (Ha was also unaware of it then). Ha's in-laws are verbally very abusive to her whenever they see her.

Ha has a court order for regular contact with her children which is supervised because she cannot manage them alone due to her disability. This also protects her from abuse from her ex husband's family.

When her husband told her to leave the family home Ha rented a room from a friend's friend but she felt completely isolated because she lived a long way from her children and her community and was dependent on public transport. She applied for priority housing in a high demand suburb closer to members of her community because she relied on them for social contact and to provide a supervisor for contact with her children.

The Department accepted her application but did not accept that Ha needed to move to such a high demand area. With advocacy assistance Ha persuaded the Department that she did.

Eligibility for priority housing

The Department's policy restricts eligibility for priority housing to people who can demonstrate that they are:

- eligible for public 'wait turn' housing; and
- in urgent need of housing; and
- unable to resolve that need themselves; and

- unable to access accommodation in the private rental market.

'Urgent' housing need

The Department's criteria for establishing that applicants have an urgent housing need are that they, or other people to be housed with them, are:

- 'at risk' in their current accommodation, for example, in immediate danger from a violent partner;
- homeless or at risk of homelessness;
- have a severe chronic medical condition or disability which is affected by their current housing; or
- living in accommodation which is dangerous or substandard, or severely overcrowded.

As the HAC *Annual Overview 2000/2001* states¹⁹, '...with increased applications and a very limited supply of public housing, the procedures used to make decisions and interpret policy have become very important. The criteria within the policy are continually tested, with Department staff and the Committee trying to establish relative housing need across a range of complex factors.' It is not surprising therefore that 64% of appeals to the HAC in 2000-2001 related to the Department's decisions about priority housing.

In practice, to get approval for priority housing, applicants who meet the eligibility criteria for 'wait turn' housing usually have to demonstrate that they are in much more urgent need than anyone else. This is often extremely difficult for applicants with little English, especially those with intellectual or cognitive disabilities or mental health problems.

Equitable access to services available

Providing equitable access to services is an important principle accepted by governments and service providers but often ignored in practice. People from a NESB with disability, their families and carers pay tax and are just as entitled to services as everyone else. In MDAA's experience there is a need to do more to create a level playing field to ensure that people from a NESB with disability are able to articulate their needs as effectively as people from an English speaking background without disability.

Without assistance, people from a NESB with disability find it difficult to complete the Department's application forms and to understand how important it is to provide sufficient relevant information to demonstrate that their housing need is urgent *and* that private sector housing will not meet their needs. MDAA is not funded to assist people to fill out the Department's application forms and we are not aware of any community organisation which is. Tenant advocacy organisations are funded to assist tenants already living in public housing, not people who are applying for public housing. We and other community organisations are forced to do it for people from a NESB with disability because no-one else is providing the assistance required. This clearly falls short of the Department's responsibility to provide equitable access to its services. We believe the Department has some

¹⁹ at page 6.

responsibility to ensure equitable access to public housing for people from a NESB with disability by providing funding to assist people to fill out the forms.

(See Recommendation 24)

Department's EAPS Plan and Disability Action Plan

These difficulties highlight the need for some of the initiatives set out in the Department's EAPS plan regarding information, education and communication; consultation and participation; and language services. They also highlight the need for the strategies identified in the Department's Disability Action Plan for providing information about services.

The Department's *EAPS Plan* includes the following initiatives:

- pursue partnership opportunities with agencies at local level targeting people from culturally diverse backgrounds;
- maintain an effective and efficient language service program; and
- ensure language services are responsive to demographic demands.

The Department's *Disability Action Plan* includes the following strategies:

- develop a housing assistance information package for disability support workers and tenancy advisory services; and
- plan for a broader implementation of the Joint Guarantee of Service for People with Mental Illness.

Progress

It would be helpful to know what progress the Department has made on these initiatives, particularly:

- what percentage of client service staff in metropolitan and rural areas has been trained to use interpreters;
- what information on products and services has been translated into community languages and made available to people from a NESB, especially from new migrant communities;
- how many local partnerships have been initiated to target people from diverse cultural backgrounds;
- whether a housing assistance information package has been developed and distributed;
- what kinds of support services the Department has negotiated for clients from a NESB with disability.

Public versus private sector housing: options for assistance

Whether it is more desirable or suitable for a person from a NESB with disability to be housed in public housing or to obtain some other form of assistance from the Department will depend on the individual's circumstances. MDAA consumers often say they would prefer public housing. This may be because the person believes it is safer, more secure and more affordable than private housing; or is unaware of other options available; or is unaware of some of the problems potentially associated with living in large public housing estates; or it is not clear how long a private rental subsidy under the Special Assistance Subsidy scheme (SA Subsidy) might last.

Special assistance subsidy

We understand that the Department's SA Subsidy applies to people with a disability who have reached their turn on the general waiting list or been approved for priority housing. It can be paid while people wait for a suitable Department dwelling and is intended to prevent them from being disadvantaged if they have to wait longer than applicants without a disability. For vulnerable people from a NESB with disability, a longer-term SA Subsidy for private rental housing may be more suitable than public housing, but most do not know the subsidy exists. In any event no-one can apply for it because it is a discretionary payment²⁰ although a person can appeal against a decision not to grant it! (See Recommendation 22)

The Department's staff assess the effect of the applicant's disability on their capacity to find and keep suitable and affordable housing located near necessary health or support facilities, so having a disability does not automatically guarantee access to the SA Subsidy. In MDAA's experience the Department's staff do not always understand the nature of the disability or the effects it has on the applicant's housing needs. For applicants from a NESB these effects may be compounded by lack of English, cultural factors or both. In our experience the Department's staff do not always know how particular policies such as the SA Subsidy operate and sometimes give wrong information or advice about them, to the client's detriment. (See Recommendations 10, 11 and 12)

Abdullah

Abdullah lives with his wife and three children, one of whom has a physical disability. After he appealed successfully against the Department's rejection of his application for priority housing, the Department offered Abdullah a house but it was unsuitable for his daughter's needs. Abdullah accepted the Department's second offer, after they agreed to modify the house to cater for his daughter's disability. The family moved in in 1999.

Abdullah pressed the Department to carry out the modifications but after more than a year the Department notified him they had decided that the house was too old for the modifications to be economically viable and it was scheduled for demolition. Abdullah then applied for a transfer. The Department told him there was nothing available in his preferred location. He then asked for transfer to another location but the Department told him that area was administered by a different office and he would have to start again on their transfer list.

Abdullah then notified the Department that he would find a place in the private rental market if he could receive the SA Subsidy. The Department rejected his request because they believed he would not be able to modify a private rental property to suit his daughter's needs, even though the Department itself had refused to modify the property it had allocated to him and his family.

After Abdullah received some advocacy assistance the Department agreed to provide the SA Subsidy.

Developing other options

Public housing, particularly on large estates with known problems, may not be the most appropriate form of assistance the Department could provide, especially for very vulnerable people, eg, those from a NESB with a cognitive disability or mental health problems, who are

²⁰ This means that there is no legally enforceable right or entitlement to receive it.

more likely to be harassed or vilified than other tenants because of their ethnic background or disability. Other options could be developed in consultation with people from a NESB with disability and their advocates. (See Recommendation 23)

Department's EAPS Plan and Disability Action Plan

These experiences highlight the need for some of the policy and program development initiatives in the Department's EAPS plan, as well as strategies in its Disability Action Plan regarding service planning and delivery and staff training.

The Department's *EAPS Plan* includes the following initiatives:

- review, update and develop policies and procedures taking into consideration the needs of minority client groups; and
- explore partnerships with other agencies to deliver better services to all in the culturally diverse society.

The Department's *Disability Action Plan* includes the following strategies:

- extend implementation of the Joint Guarantee of Service for People with mental illness between the Departments of Housing and Health within public housing services;
- improve the housing services available for people with disabilities by enhancing tenancy management services; and
- promote staff awareness of the special tenancy allocation requirements of disabled people, and the service options available within the Department.

Progress

It would be helpful to know what progress the Department has made in implementing these initiatives, for instance:

- how many local agencies providing services to NESB clients the Department has approached to explore partnerships;
- which policies and procedures the Department has reviewed or developed to take into account the needs of NESB clients;
- whether the Joint Guarantee of Service for People with a Mental Illness has been implemented state-wide;
- whether the Department has developed information packages on utilities, phone and transport concessions for tenants with disabilities (as listed in the Disability Action Plan); and
- what percentage of staff have received training about the SA Subsidy for clients with disability.

Housing application forms

In MDAA's experience people from a NESB with disability face initial hurdles in applying for public housing, particularly priority housing. It appears that the Department relies on applicants from a NESB with disability having an advocate or support person to complete the forms. The following difficulties are typical.

General issues

- not knowing what information or level of detail is needed to meet the criteria for priority housing;
- not understanding the long application forms which ask complex, detailed, repetitious and sometimes ambiguous questions;
- if the applicant's circumstances don't fit into the answer categories specified there is limited opportunity to provide other relevant information;
- although the forms indicate that the Department's Client Service Officers may assist applicants (with an interpreter if necessary) they can only include information the applicant provides: this may disadvantage some applicants, particularly those with an intellectual disability, or those unwilling to provide information for cultural reasons;
- difficulty understanding what constitutes adequate, acceptable evidence of the applicant's need for support/ assistance resulting from their own or a family member's disabilities;
- difficulty providing detailed evidence of domestic circumstances, including acceptable evidence of violence or of other family members' needs, and associated privacy and confidentiality problems if the applicant is relying on a family member or friend to assist with the application, especially where disclosure of violence is problematic in some cultures;
- if a family member or friend who assists with the application is also from a NESB, language difficulties may not be overcome;
- the criteria are problematic for people with non-physical disabilities: people with intellectual or cognitive disabilities sometimes find it very difficult (without support or advocacy) to demonstrate the urgent need or exceptional reasons required to apply successfully for public housing compared with applications for private rental with Rentstart assistance;
- the current 'locational needs'²¹ criteria are too broad to be useful in assessing whether the applicant needs to live in a particular location²² (rather than simply preferring to live there); and
- the application for priority housing form mentions 'assistance in special circumstances' but does not provide details of the SA Subsidy.

Medical issues

- not realising that records and receipts of all medical treatment should be kept;
- doctors may not always wish to provide a detailed prognosis about the applicant's condition;
- not all general practitioners understand the nature of various disabilities or appreciate the importance of providing detailed medical assessments about the effects of the applicant's disability specifically on their housing needs;
- obtaining reports from specialists can take a long time and cost more than the applicant can afford; and
- it is not clear whether the Department takes into account other disability related expenses in calculating income, eg, for incontinence aids or necessary equipment, or for 'alternative' therapies such as massage or Chinese herbs.

²¹ The locational needs assessment form is intended to assist the Department to establish whether an applicant has a real need for housing in a particular area or just a preference for living there. It applies particularly in high demand areas.

²² See page 7, *Annual Overview 2000/2001*, HAC.

Inconsistencies

- the Department's practices, requirements, advice and information are inconsistent from one local office to another, eg, some Sydney offices require a 'locational needs assessment form' for every application while others don't ask for them.

(See Recommendations 25, 26 and 27)

Department's EAPS Plan and Disability Action Plan

These experiences highlight the need to improve form design and provide information in community languages, consistent with objectives in the Department's EAPS Plan regarding service delivery; human resources and training; and information, education and communication, and the priority areas in the Department's Disability Action Plan relating to information about services and staff training. The current plans do not specify any particular initiatives or strategies to address the difficulties outlined here in regard to application forms.

Reasonable offers: the 'two reasonable offers' policy

The Department's policy is to make eligible applicants two reasonable offers of housing that will meet their accommodation and locational needs. If the applicant rejects two reasonable offers, their name is removed from the housing register²³. If an offer is 'not suitable because of changes in the applicant's circumstances' the Department's policy²⁴ is to:

- cancel the offer;
- discuss the situation with the client;
- offer more suitable accommodation later; or
- counsel the client to accept the first reasonable offer.

Shalini

Shalini has a degenerative physical condition which affects her mobility. The Department approved her application for priority housing in 2000 after she appealed successfully to the HAC. The Department subsequently removed Shalini's name from the priority list after she rejected 2 offers of housing which they believed were suitable.

Shalini said she believed the offers were unreasonable because they did not take into account the effects of her disability. The Department's records on her application were in 3 separate offices. This was very confusing and she had to contact all three at various times. With advocacy assistance Shalini argued successfully that the first offer was unsuitable because the housing offered would not adequately accommodate her disability needs. The Department withdrew that offer.

Shalini argued that the Department had made the second offer knowing she had recently signed a new private rental agreement with associated costs (bond, removal, etc). She entered that agreement believing there was no alternative: she was completely confused by the Department's actions and needed housing more quickly than the Department seemed able to provide.

The Department did not accept this as a good reason for rejecting their second offer because the housing offered would have met her needs. That left Shalini with only 1 offer remaining.

²³ This means the person would have to re-apply for public housing or priority housing.

²⁴ Department of Housing, Policies: Policy Offering a Property to a Client, 17.11.99

As the HAC noted in its *Annual Overview 2000/2001*²⁵ the Department's longstanding 'two reasonable offers' policy needs revision to take into account the changes to waiting times in recent years. The HAC believes that because waiting times have become so lengthy in most areas, removal from the waiting list after waiting many years for an allocation is a very strong penalty and means, in practice, that many clients may be unable to obtain public housing in the future. The HAC is concerned that many clients are not aware of the length of waiting lists in some areas and may not understand that refusing an offer of housing is much more serious to their long-term housing prospects than they realise. The HAC suggested less drastic 'penalties' to allow for different forms of time deduction, enabling the client to remain on the register but with a later eligibility date. (See Recommendation 28)

The HAC states²⁶ that:

- applicants need to test the criteria relating to their specific housing needs at the time the first offer is made, before a second offer is made;
- it is not always clear whether the Department has notified the client in writing whether it has accepted their reasons for rejecting a particular offer. This makes it difficult for the client to know whether the Department has accepted or rejected their reasons and whether the Department has cancelled the offer or counted it as a rejection of a reasonable offer;
- the issue of whether an applicant has been made aware of the Department's 'two reasonable offers' policy has been ongoing, particularly as it appears that allocations are sometimes made without the assistance of an interpreter; and
- it raised with the Department the need to advise clients about their right to appeal against the Department's decision to reject their reasons for not accepting the first offer of housing.

The HAC notes²⁷ that the Department responded by listing these issues in its review of offers procedures and in redrafting its standard letters to clients. (See Recommendations 20 and 21)

'Reasonable' depends on the applicant's circumstances

Applicants from a NESB with disability who are approved for priority housing face additional difficulties in having to reject unsuitable housing offers and effectively articulate and persuade the Department that an offer was unreasonable, because it did not adequately take into account their disability-related housing needs, or cultural considerations, or both.

Some people are forced to accept unsuitable housing offers because the Department is not prepared to accept that the offers were unreasonable in the applicant's circumstances. Others find themselves caught by the combined effects of the 'two reasonable offers' policy and the timing of the Department's offer. Shalini's experience (page 37 above) illustrates this.

Public housing applicants have to nominate one of the Department's 'allocation zones' as the area in which they would prefer to live. The zones vary in size, eg, over three or four local

²⁵ at page 8

²⁶ See page 8, *Annual Overview 2000/2001*, HAC.

²⁷ See page 8, *Annual Overview 2000/2001*, HAC.

government areas in Sydney. This causes difficulties for applicants with disability who may choose a specific location, eg, Hurstville, because they rely on public transport and the Hurstville railway station is accessible. The Department may offer the applicant housing somewhere else in the Hurstville zone, eg, Carlton or Allawah, which doesn't have an accessible station. In our experience the applicant would have to argue very persuasively to get the Department to accept that the offer was unreasonable.

Milanka

Milanka has physical disabilities which mean that she cannot tolerate heat and gets distressed in hot weather; she is unable to walk for more than a few minutes at a time; and uses a walking stick for support. Milanka stays at home most of the time and lives with her son who provides ongoing emotional and practical support (eg, shopping, cleaning, transport to medical appointments).

Milanka applied for a 3 bedroom house (1 for herself, 1 for her son and 1 for equipment associated with her disability). The Department initially rejected her application: they said her son could pay rent in the private rental market as well as continue to care for her.

The Department later approved Milanka's application and offered her a house with a tin roof. Milanka rejected the offer because the house would get too hot in summer. The Department refused to accept that the offer was unreasonable and counted her response as a first refusal. After Milanka's advocate provided detailed information about the nature of her disability the Department cancelled its offer and agreed to look for more suitable accommodation for her.

Department's EAPS Plan and Disability Action Plan

These experiences highlight the need for initiatives in the Department's EAPS Plan regarding policies and programs; and consultation and participation, and the strategies in the Department's Disability Action Plan relating to staff training; employment; and service planning and delivery.

The Department's *EAPS Plan* includes the following initiatives:

- review, update and develop policies and procedures taking into account the needs of minority client groups;
- increase the participation of people from diverse cultural backgrounds in consultation and planning processes;
- encourage and promote diverse tenants' involvement in tenant participation initiatives; and
- explore new models for consultation and participation at a local level.

The Department's *Disability Action Plan* includes the following strategies:

- review/update the disability awareness training program for delivery by Public Housing Regions and the Office of Community Housing;
- encourage the employment of people with disabilities in the Department through appropriate recruitment strategies;
- consult people with disabilities and their representatives during the development of business plans;
- explore innovative projects for housing developments to meet client needs; and

- establish supportive linkages between the participating organisations.

Progress

It would be helpful to know what progress the Department has made in implementing these strategies:

- whether the Department has reviewed its 'two reasonable offers' policy to take into account the needs of clients from a NESB with disability;
- what mechanisms the Department has established to ensure ongoing participation of people from a NESB in its planning processes and the development of business plans;
- what initiatives the Department has taken to ensure involvement of tenants from a NESB in service improvement;
- what percentage of local offices has explored new models for consultation with and participation of people from a NESB;
- whether the Department's disability awareness training for staff includes information on the effects of particular disabilities on a person's housing needs;
- the percentage of staff from a NESB with disability.

6. *Staying in public housing*

Public housing tenants from a NESB with disability have sought MDAA's assistance to resolve a range of difficulties, from getting the Department to approve and carry out modifications to address their needs; to coping with long delays in getting maintenance carried out; and achieving the privacy and quiet enjoyment most people seek in their living arrangements. General difficulties experienced by public housing tenants are intensified for tenants from a NESB with disability because of our lack of language skills and because the delays can exacerbate the effects of the disability.

Home modifications: getting approval; meeting the standards

As part of the Department's Disability Action Plan at least 10% of all new public housing must be 'adaptable', that is, easily converted at minimal cost to be suitable for people who use wheelchairs. For both new and older housing stock the Department's stated policy is to modify its dwellings to suit people with disability if it is economically viable to do so. The aim is to assist tenants with disabilities to live safely and comfortably. Tenants may be re-housed if it is not economically viable to modify their home. The Department requires a report from an occupational therapist; reviews the therapist's recommendations; and considers how much work is involved in making the modifications.

If only minor modifications (involving non-structural changes) are required the Department will authorise the work, eg, adding grip rails, changing to lever-style taps, installing a hand-held shower. Major modifications such as widening doorways, providing access ramps, modifying kitchens, bathrooms or laundries, involve meetings between the Department, the tenant and the occupational therapist to discuss the options available. Assessing the economic viability of such modifications involves consideration of the long-term value of the property; costs of alternative approaches; the costs and benefits of relocating the tenant; and competing priorities for funds.

MDAA consumers have complained about the overly bureaucratic procedures for getting modifications approved and the long delays before they are carried out once they've been approved. Abdullah's experience (page 34 above) illustrates these difficulties. In some instances the Department appears to ignore requests for modifications or repairs until the tenant suffers an injury. This can exacerbate the tenant's disability and cause friction between the tenant and the Department unnecessarily. (See Recommendations 29 and 30)

Bianca

Bianca has a physical disability which affected her legs and required her to use crutches to walk. In 2001 the Department offered Bianca accommodation with a tiled floor. Bianca thought the tiles were dangerous and rejected the offer. The Department believed the offer was reasonable and rejected her reasons for not accepting it. Bianca asked the Department to replace the tiles.

After Bianca moved in she fell on the tiled floor and required hospital treatment. She now requires a wheelchair for all mobility and is taking legal action against the Department.

It is important that the Department has a range of housing stock (including free-standing houses, houses with separate entrances, and accommodation that is not in public housing estates or with common walls) available in a range of areas (rural, centre of town, etc) suitable for people with a range of disabilities. Some people with mental health problems require privacy, peace and quiet to maintain their health. (See Recommendation 23)

Department's EAPS Plan and Disability Action Plan

The experiences set out above highlight the need for the following strategies in the Department's *Disability Action Plan*, relating to physical access; training; service planning and delivery; and data and reporting:

- increase the number of dwellings available to people with physical disabilities in accordance with Australian Standard 4299 and/ or fully accessible in accordance with specific requirements;
- examine the feasibility and cost effectiveness of head leasing dwellings being considered for modifications;
- explore options within Strategic Asset Management to improve the design of housing for people with disabilities;
- develop strategies to improve the location of dwellings for people with disabilities closer to community services;
- increase awareness/ sensitivity to the needs of people with disabilities by contractors and technical staff;
- develop comprehensive demographic needs data to support business planning;
- explore ways to improve assessment of home modifications and quality service provision;
- explore development of the data base to identify dwellings which have been modified for people with disabilities or which are adaptable.

Progress

It would be helpful to know what progress the Department has made in implementing these strategies, for instance:

- what percentage of dwellings has been adapted²⁸ to comply with Australian Standard 4299;
- what percentage of dwellings is fully accessible;
- what percentage of head leasing contracts has been reviewed and the impact of modifications evaluated;
- what consultations the Department has held with people with disability and their advocates about design options and the location of dwellings close to community services;
- what percentage of technical staff has attended disability awareness training;
- what protocols the Department has negotiated with occupational therapists and technical staff about standard assessments of home modifications; and
- what action the Department has taken to develop a data base to identify modified or adaptable housing stock.

²⁸ The Department adapts about 450 existing public housing properties per year. See page 9, *Inquiry into Disability Services*, Standing Committee on Social Issues.

Maintenance delays and quality of repairs

MDAA consumers report that it sometimes takes years for the Department to carry out reasonable requests for maintenance or repairs to their housing and that repairs are sometimes substandard. The Department's policy handbook acknowledges that maintenance is a top priority for tenants. The stated policy is to:

- repair urgent maintenance in 24 hours;
- repair priority maintenance in 7 days;
- give tenants clear, accurate information about when other repairs are planned to occur;
- have repair work inspected once it is carried out;
- have the property inspected every year for a condition assessment; and
- have repairs undertaken by contractors who are courteous and punctual in their approach and whose work is performed in a skilled manner.

The Department may disagree that repairs requested by the tenant are required urgently or warrant priority: it classifies maintenance 'urgent' or first priority if it affects the safety or essential security of the tenant; involves weatherproofing or essential services within the dwelling. Bianca's experience (page 41 above) demonstrates that there may be disputes about whether a particular feature of the dwelling affects the tenant's safety, especially if the Department does not understand the nature of the tenant's disability or why they are asking for urgent repairs. Tenants from a NESB with little English and disability are not always able to articulate their needs or persuade the Department to take timely action to meet those needs. Tenants believe the Department ignores them because of their NESB or disability or both. (See Recommendations 28, 29 and 30)

Amar

Amar has a physical disability and became a public housing tenant in 1999. Soon after moving in he asked the Department to carry out some repairs. By mid 2000 the repairs had still not been carried out. With advocacy assistance Amar wrote to the Department and eventually applied to the RTT. The RTT ordered the Department to carry out the repairs.

Department's EAPS Plan and Disability Action Plan

These experiences highlight the need for the initiatives in the Department's EAPS Plan regarding service delivery; information, education, communication; and human resources and training, and the Disability Action Plan's strategies for promoting positive community attitudes.

The Department's *EAPS Plan* includes the following initiatives:

- increase linkages with ethnic support agencies at local and corporate levels;
- continue to positively promote the ethnic diversity of the Department's client base; and
- explore options to increase the recruitment of bilingual client service staff.

The Department's *Disability Action Plan* includes the following strategy:

- develop best practice guidelines to assist staff's effective approach to the provision of services to people with disabilities.

Progress

It would be helpful to know what progress the Department has made in implementing these strategies, particularly:

- what mechanisms are in place to put into effect the feedback gained from local and corporate links with ethnic support agencies;
- what actions the Department has taken to promote positively the ethnic diversity of its client base to staff within the Department; and
- whether best practice guidelines have been developed and if so, what action the Department has taken to encourage staff to put them into practice.

Intrusive investigation of allegations against tenants

The Department's policy about rental subsidy fraud relates to circumstances where a tenant deliberately makes a false, incomplete or misleading statement about the income or assets of any member of their household, or fails to notify the Department of a change in their circumstances. Where the fraud is deliberate the Department may seek to terminate the tenancy although its stated policy is to apply the rules of natural justice to give the tenant the right to be heard impartially. The policy states that this means:

- the tenant should be told about the policy and what is required of them;
- the tenant should be told the substance of allegations against them so that they have the opportunity to correct or refute them;
- the tenant should be told what evidence the Department has; and
- the investigation should only take into account relevant considerations.

George

George has mental health problems and came home one day to find that the Department had entered his flat without permission after receiving allegations that no-one lived there. His neighbours had been making racist remarks and generally making his life miserable for some time. They told him several times that they wanted him to leave. George is the only single member of his family and spends most days with his father who needs care and support because he is very ill. George comes home most nights to sleep at his flat.

The investigating officer threatened to evict George and told him that he did not have enough furniture in his flat to prove he lived there. The officer told George he would have to tell the Department whenever he went away. George thought it was none of the Department's business how much furniture he had or if he went away for a week or two. He always came back because his flat was his home. George asked the Department to stop the neighbours from bothering him.

The investigating officer told him there was nothing the Department could do about that.

MDAA consumers' experiences indicate that the Department's policy is not always applied during investigations of information received. People from a NESB with disability have made the following complaints about investigations:

- some officers conduct their investigations very intrusively: the way they ask questions is offensive, intimidating and insensitive, showing no regard to the person's culture or the nature of their disability;

- some officers appear to assume that any allegation against a tenant from a NESB with disability is true: the tenant feels they are not given the benefit of any doubt and that the officer is being discriminatory because of the tenant's ethnic background or disability;
- the intrusive nature of some investigations puts too much pressure on some people with disabilities, especially those with mental health problems; and
- the Department does not appear to understand its obligations to protect its tenants (particularly those who are especially vulnerable because of their disability or their ethnic background) as well as investigate allegations about them.

In MDAA's experience information is not usually deliberately withheld: rather, a person from a NESB with disability may not have understood the Department's notification requirements. Also, as people from a NESB, including those with disability, are often targets of racist and discriminatory attitudes, allegations may be vexatious and the Department should be alert to this possibility and cautious in the investigation of complaints made against tenants from a NESB with disability.

Raquel's experience (page 23 above) also demonstrates that people from a NESB may be subject to pressures from family and friends within our own communities which lead us to behave differently from Anglo-Australians. The Department's Client Service Officers and investigation staff need to understand and accept that cultural differences in values and expectations result in diverse views about what is 'normal' behaviour.

(See Recommendations 7 and 31)

Department's EAPS Plan and Disability Action Plan

The experiences outlined above highlight the need for the training strategies set out in the Department's EAPS Plan and Disability Action Plan and related recommendations made earlier in this report. The *EAPS Plan* contains the following initiative:

- progress with the provision of *Prevention of Harassment Training* to client service staff.

It would be helpful to know the percentage of staff who have attended this training and whether the Department has any measure of the extent to which it has increased staff awareness of racial vilification and religious intolerance.

Good neighbour policy

The Department's stated policy is to manage the tenant mix in a locality to reduce the potential for conflict. The aim is to assist tenants to live in peace and harmony with their neighbours and to encourage them to sort out problems themselves or through mediation. The Department refers tenants to Community Justice Centres for assistance and states that it will only take eviction action when all other reasonable options have been exhausted, unless the breach has been extremely serious. The Department states²⁹ that 'every attempt will be made to salvage the tenancy'.

²⁹ Department of Housing, Policies: Policy EST0013A - Good Neighbour Policy, 5.9.01

Franco

Franco lives in public housing and asked for a transfer because a neighbour kept harassing him, making racist comments, being rude to him and complaining to the Department that he was conducting a business from his flat. Franco has an intellectual disability and volunteers his time to his community. Consequently, he receives frequent visits from other members of his community.

The Department visited Franco several times asking questions about his activities and the people who visited him. Franco felt that the Department put the onus on him to disprove the allegations, even though there was no evidence that any business activity was taking place in his flat. The Department then referred Franco and the other tenant to the Community Justice Centre for mediation. The other tenant refused to participate and continues to harass Franco and make him feel very uncomfortable. Franco just wants to live a peaceful life.

The Tenants' Union of NSW report *Unjust and Inappropriate* sets out numerous examples of how the Department's 'Good Neighbour' policy exacerbates neighbour disputes instead of assisting their resolution. MDAA consumers report similar experiences and support the argument that structural issues underpin most nuisance and annoyance complaints. The report summarises these structural issues as follows:

- inappropriate allocations;
- poor housing design and lack of housing standards;
- ineffectual communication;
- inappropriate information gathering strategies; and
- inappropriate responses to racist abuse and intolerance.

MDAA supports the report's practical suggestions for how these problems can be resolved.

In MDAA's experience social problems, including neighbour disputes, can be exacerbated by some disabilities, especially brain injury, intellectual and mental health problems. For a person from a NESB, lack of English language skills can also increase the difficulties in negotiating with the Department and other tenants about their needs. Issues raised by MDAA consumers include:

- when disputes between tenants arise the Department appears to find it easiest to move the tenant with a disability;
- although the Department's staff could refer 'troublemakers' to other agencies for assistance they don't often do this;
- tenants from a NESB with disability who complain can end up being victimised without any protection from the Department;
- the Department has a duty to protect tenants, particularly those with cognitive disabilities, who can easily be manipulated, 'ripped-off' or harassed by other tenants, but the Department's response is often 'it's not our problem'; and
- neighbourhood disputes could be avoided if the tenant was accommodated according to their needs.

(See Recommendations 32, 33 and 34)

Maria

Maria lives in an upstairs unit and finds the stairs difficult because she has only one leg and uses crutches for mobility. She asked the Department for a transfer to more suitable housing. In addition, one of Maria's neighbours has an alcohol problem and constantly harasses her by yelling racially abusive comments at her and leaving garbage outside her front door.

The Department referred the issues between Maria and her neighbour to the RTT as alleged breaches of their tenancy agreements. The RTT warned both of them that they risked eviction if their confrontations did not stop. Maria is still waiting for approval for a transfer.

Department's EAPS Plan and Disability Action Plan

These experiences highlight the need for initiatives in the Department's EAPS Plan regarding policies and programs; service delivery; and information, education and communication, and the strategies in its Disability Action Plan for promoting positive community attitudes, highlighted earlier in this report.

Privacy problems

MDAA advocates and consumers report that the Department's staff do not always respect tenants' privacy. It is clear when visiting the Department's offices that staff talk to each other and gossip about clients: even the security guards appear to know about particular clients, regardless of whether they pose any threat to security. Staff use hands-free speaker phones instead of headsets when clients phone them and other staff overhear the conversations.

(See Recommendation 35)

In addition, the Department collects large amounts of personal information about applicants and tenants in application forms and associated documents. Medical information and specialist reports for clients with disabilities are kept on the client's file for any staff member to read. This personal information remains on the Department's file even if an application is unsuccessful.

(See Recommendations 36 and 37)

Appendix Facts, Figures, Other Reports

Who is MDAA?

MDAA is the only state-wide community organisation which aims to promote, protect and advocate for the rights of people from non-English speaking backgrounds with disability and their families and carers. MDAA provides the following services:

- individual and systemic advocacy;
- information on issues relating to disability and ethnicity;
- training to people from NESB with disabilities, their families and carers; and
- information and training to people working in government and non-government sectors.

MDAA provides:

- individual advocacy to promote and safeguard the rights of people from a NESB with disability and their families and carers; to improve the quality of life and increase the participation of individuals from a NESB with disability;
- systemic advocacy to effect positive changes in legislation and preserve existing legislative protection; to work towards positive changes in services and government departments' policies, procedures and practices; and to develop and participate in effective networks and coalitions;
- advocacy development to increase the knowledge of people from a NESB with disability and their families and carers of disability rights and general rights of people from a NESB;
- industry development to enhance the cultural competence of community, private and government agencies in relation to people from a NESB with disability and their families; to research and promote issues relevant to people from a NESB with disability and their families and carers; and to provide advice, support, training and overall expertise in the areas of cultural diversity and disability.

MDAA is an independent, community based organisation, incorporated in 1997, funded mainly by the Commonwealth Department of Family and Community Services and the NSW Department of Ageing, Disability and Home Care. MDAA is run by a management committee whose members are elected at annual general meetings. Eighty percent of committee members are people from NESB with disability, and have different disabilities (including brain injury, hearing impairment, vision impairment, intellectual, physical, psychiatric disabilities) and come from different cultures (including Afghanistan, Baltic States, China, Greece, Italy, Philippines, Ukraine, Uruguay, Serbia). MDAA staff also come from different cultures and may have a disability.

NESB + disability: statistics

There are no reliable statistics available about the incidence of disability within NESB communities. The data available are limited and different definitions used when referring to 'NESB' create many problems. MDAA has used data from the following sources to derive the statistics set out below:

- Australian Bureau of Statistics (ABS)
- NSW Department of Ageing, Disability and Home Care (DADHC)
- Department of Family and Community Services (FaCS)

Based on these sources MDAA concludes that:

- 16.8% of the NSW population (1,015,862 people) speak a language other than English at home (ABS, 1966 Census);
- 16.8% of all people with a disability living in NSW speak a language other than English at home;
- 15% of the NSW population has a disability (ABS, 1998, Disability, Ageing and Carers: Summary of Findings)
- 2.5% of the NSW population (152,175 people) have a disability and speak a language other than English at home³⁰;

It is important to note that the ABS and most government departments, including DADHC, define NESB as a person who is either:

- born overseas in a non-English speaking country; or
- speaks a language other than English at home.

As that definition excludes second generation children of migrant parents, MDAA prefers the broader definition of NESB used by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), namely, NESB refers to a person who was born:

- overseas and whose language or culture is not English or Anglo-Celtic/ Saxon; or
- in Australia and the first language or culture of at least one parent is not English or Anglo-Celtic/ Saxon; or
- in Australia with a linguistic or cultural background other than English or Anglo-Celtic/ Saxon who wishes to be identified as such.

The ABS statistics (1996, *Census*) show that:

- 42% of the population were either born overseas (English speaking + non-English speaking countries) or have one or both parents born overseas (English speaking + non-English speaking countries); and
- 57% of those born overseas or with one or both parents born overseas come from a non-English speaking background.

Using that information MDAA estimates that:

- people from a NESB comprise 24% of the NSW population;
- 24% of all people with a disability living in NSW are from a NESB³¹;
- 3.5% of the NSW population, or 217,396 people, are from a NESB with a disability³².

³⁰ 15% x 6,038,696 (NSW population) = 905,804 people. 16.8% x 905,804 (people with a disability in NSW) = 152,175 which = 2.5% of the NSW population

³¹ 42% x 6,036,696 (NSW population) = 2,536,252. 57% x 2,536,252 = 1,445,664 (people from a NESB in NSW) which = 24% of the NSW population.

Other relevant reports, facts and statistics

MDAA: 'Less Talk, More Action'

MDAA's June 2000 report *Less Talk, More Action* identifies a range of problems faced by people from a NESB with a disability and puts forward clear, practical solutions for governments, government and non-government service providers. People from a NESB with disability share many experiences with other people with disability and also share many experiences with other people from a NESB. But our experiences are different from both these communities. We are the only community which experiences the barriers and issues specific to the intersection of disability and ethnicity. *Less Talk, More Action* suggests a model and partnership based strategies which are cost-effective and efficient and which, if implemented, will provide better outcomes for people with disability from a NESB.

Immigrant Women's Speakout: 'NESB Women's Access to the Private Rental Market'

In July 2001 the Immigrant Women's Speakout Association of NSW published a research report *NESB Women's Access to the Private Rental Market* which documents the difficulties experienced by NESB immigrant women in getting, maintaining and retaining private rental housing. Focus group discussions and individual case studies illustrate the nature of these problems. The report puts forward clear, practical strategies for resolving the problems described. The difficulties described are similar to those of MDAA consumers from NESB with disabilities: getting into and staying in the private rental market is not easy and not always appropriate, depending on the nature of the person's disability and their English language proficiency.

Tenants' Union of NSW: 'Unjust and Inappropriate'

In November 2001 the Tenants' Union of NSW's published a report *Unjust and Inappropriate – A response to the operation of the Residential Tenancies Amendment (Social Housing) Act 1998* which concluded that the NSW Department of Housing's 'good neighbour policy' is '...having the paradoxical effect of excluding tenants for factors that provided the reasons they required public housing in the first place'. The report sets out the experiences of NSW Department of Housing tenants with one aspect (neighbour disputes) of public housing through a series of case studies. It too makes practical suggestions for overcoming the problems described. MDAA consumers' experiences echo those set out in *Unjust and Inappropriate*.

Inner West Migrant Resource Centre: 'More Than a Roof Over Their Heads'

In February 2002 the Inner West Migrant Resources Centre published a report *More Than a Roof Over Their Heads: Housing Needs of Single Refugee Women with Large Families from the Horn*

³² 15% of the NSW population has a disability: so 15% of 6,038,696 = 905,804. 24% of 905,804 = 217,393 (people with a disability from a NESB) which = 3.5% x NSW population.

of Africa Residing in Sydney's Inner West Area which identifies and describes the difficulties experienced by these refugees and their families in finding affordable accommodation in Sydney. The report outlines the crucial role of secure, affordable, appropriate housing in assisting refugees to settle quickly into a new country, particularly women who have sought refuge because of torture in their home country. It indicates why private rental housing in Sydney is an unrealistic option for single African women refugees with large families. The report recommends that the Department of Housing recognise these families as eligible for priority housing and assist them in various ways to find secure, appropriate accommodation.

NSW Health: 'Caring for Mental Health in a Multicultural Society'

In November 1998 NSW Health published a report *Caring for Mental Health in a Multicultural Society – A Strategy for the Mental Health Care of People from Culturally and Linguistically Diverse Backgrounds* which concluded that people from culturally and linguistically diverse backgrounds are less likely to use mental health services and less likely to be admitted voluntarily to inpatient hospital services, but that they are more likely to seek assistance from bilingual general practitioners and psychiatrists and may rely heavily on family members and other traditional methods for support and healing. The report proposed a strategy for ensuring that the mental health system is able to provide mental health services which are non-discriminatory and sensitive to the social, cultural linguistic and religious values and practices of all people living in NSW. It was developed in consultation with key consumer and service provider groups and individuals involved in the areas of mental health care and ethnic affairs in NSW.

Botany Migrant Resource Centre: 'Housing Report 2002'

Botany MRC undertook an analysis of the settlement needs of culturally and linguistically diverse communities in the Botany, Randwick and South Sydney local government areas of Sydney in 2001. Housing was one of the major concerns highlighted by community members and service providers. Community members stated that they had difficulties with the high cost of living in the eastern suburbs and renting in the private market. The majority of respondents to the survey lived in rented accommodation, with only 4% living in public housing. They had experienced difficulties in communicating with real estate agents and understanding leases, and had found it difficult to rent property due to lack of references and other relevant documentation.

As a result of the recommendations arising from the settlement needs analysis, Botany MRC held a housing forum in August 2002 to develop strategies focusing on access and equity issue in the housing sector for marginalized communities. Strategies proposed in *Housing Report 2002* relating to the NSW Department of Housing are consistent with the recommendations in *Hitting the Roof*.

Housing Appeals Committee: 'Annual Overview 2000/2001'

The Housing Appeals Committee's (HAC) *Annual Overview 2000/2001* contains interesting statistics about appeals from the Department's decisions in that year:

- the HAC received 433 appeals;

- there was a 30% increase in appeals received (mainly from the high demand Sydney regions);
- 43% of appeals required the use of an interpreter;
- there was an increasing number of appeals from NESB clients with complex needs;
- 64% of appeals related to the Department's decisions on priority housing applications;
- the HAC agreed with the Department's original decision in 67% of appeals;
- the HAC recommended a changed of decision in 58 appeals (15%);
- the Department accepted 45 (78%) of the HAC's recommendations to change the decision;
- the HAC referred another 60 appeals (16%) back to the Department for review because of new information provided by the appellant; or because the client's circumstances had changed significantly; or because the HAC considered that some information had not been given sufficient weight in the original decision; and
- the Department changed their decision in favour of the client in 48% of the 60 cases reviewed.

NSW Parliament's Standing Committee on Social Issues: 'Inquiry into Disability Services'

In the proceedings before the Committee's *Inquiry into Disability Services* on 24 September 2001 representatives of the Department provided the following information:

- the main assistance provided by the Department to people with a disability on low incomes who cannot meet their needs in the private rental market is priority (public) housing;
- other assistance to people whose main need is affordable accommodation that could be met in the private market is by modification and adaptation to privately rented accommodation or by financial assistance to help them get into the private rental market (eg, via Rentstart);
- priority housing applies to a total of about 5,000 households a year in NSW (including people with and without disabilities);
- people with disabilities go to the top of the priority housing list;
- around 45% (or 2,100) of the total number of people who are given priority housing each year are people with a disability, about half of whom need ground floor accommodation;
- the mean waiting time across NSW for people with a disability who are on the priority housing list is 2 months;
- the Department has a Special Assistance Subsidy (SA Subsidy) available for people with a disability who are approved for priority housing and are waiting for a suitable offer:
 - the SA Subsidy brings down the cost of their private rental to what it would have been if they had been offered priority public housing quickly;
 - in some cases people who have received the SA Subsidy opt to stay in their private rental housing – the Department to date has been 'reasonably flexible' about how long it will continue to pay the SA Subsidy in these circumstances;
- the Department has about 125,000 tenants: between 13% and 25% of these households have a member with a disability (depending on whether you count elderly tenants, ie, up to 30,000 households including elderly tenants);
- the Department turns over about 15,000 properties per year across NSW: people on the priority list get first call on all of them;
- the Department leases over 1,000 properties per year (the Office of Community Housing leases additional properties to this 1,000 per year as detailed below);

- the Department is reconsidering its local allocation strategies:
 - currently offers are made strictly in order of the priority list: there is no discretion for front-line staff about whom they offer properties to, providing a property is physically appropriate to the person's needs;
 - sometimes this may lead to an inappropriate mix of people that causes problems, particularly nuisance and annoyance, particularly where people have mental health problems;
- the Department is developing several projects in conjunction with the DADHC to improve the options available for people with disabilities. The Department will provide the housing, with DADHC arranging for any other support services required:
 - an assisted tenancies pilot project for people who need support to manage a tenancy in social housing (involving a written agreement between the Department, DADHC and the tenant, about the nature of the support to be provided and assurances that it will be provided when and for as long as it is required): the Centre for Mental Health is also involved in this project;
 - a new model that provides some of the features of boarding house accommodation for people who are at risk of homelessness (well-run, single room accommodation which will be available for a range of people including people with a disability who need home care support): there are some model projects already operating in community housing;
 - more innovative responses from the private sector through an industry development forum for people with some resources of their own;
- the definition to be eligible for priority housing assistance is that the person must be eligible for public housing, in urgent need of housing, unable to resolve that need themselves and unable to have their housing need met in the private rental market;
- the Department has adapted 9.5% of its housing stock (about 10,900 properties) with serious modifications (eg, adapting a bathroom, kitchen, ramp) and about 27% (30,000) of properties with more minor modifications (eg, a grab rail in the bathroom);
- in 2000-2001 about 10% (145) of the people who obtained priority housing because of their disability needed premises adapted for wheelchairs and a further 338 people needed other modifications;
- the Department believes supply and demand for modified housing are broadly reasonably matched;
- standards rise as time goes by:
 - 45% of the Department's new stock satisfies current standards (adapted or adaptable for people with a disability);
 - hence a disproportionately high amount of the Department's new stock is adapted or adaptable for people with a disability;
 - the Department would usually carry out further modifications on new stock to meet the individual client's needs;
 - in 2001-2002 the Department will add 391 new properties to its stock: all of the new properties will be adaptable for client's with a disability;
 - the Department adapts about 450 existing properties per year at a cost of around \$4 million;
- the Department's Office of Community Housing (OCH) also has a mixture of arrangements for community housing and funds projects for specific groups. New

projects are increasingly being funded through housing associations in partnership with support organisations:

- the OCH provides funding for buying and leasing properties to community housing providers, who then lease the property to tenants;
- of the 10,500 households now funded through the OCH, about 4,400 are living in leased private rental properties subsidised by the OCH (it is much cheaper to lease properties than buy them): but leased private properties are not always suitable for people with a disability, depending on the nature of the disability;
- 15% of new funding for community housing each year goes towards supported projects, which require a partnership to be in place between the Department and another agency;
- about 10% of the Department's supported community housing projects already funded are disability-specific: they involve arrangements between housing associations and disability support organizations;
- of the Department's general community housing arrangements, 45% cater for people with disabilities (eg, a percentage of projects labelled 'women's projects' or 'young people's projects' would include women or young people with a disability);
- other models allow more scope for housing people on a range of incomes (eg, a cooperative housing model where 65% of the people have to be on a low income, but the other 35% can be on a range of incomes) and could offer a lot to people with disabilities who can manage their own tenancies;
- the number of people with intellectual disabilities involved in the social housing system is quite small: more of the people being served by these initiatives are people with physical disabilities or mental health problems; and
- a small section of the OCH works specifically on trying to work up innovative projects with organisations (eg, large church organisations) that have funds to contribute and which may have organisations that provide support.