

**IN THE MATTER**

of the Social Security Act 1964

**AND**

**IN THE MATTER**

of an appeal by **XXXX** of Auckland  
against a decision of a Benefits  
Review Committee

**BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

Ms M Wallace	-	Chairperson
Mr K Williams	-	Member
Lady Tureiti Moxon	-	Member

**HEARING** at Auckland on 13 October 2015

**APPEARANCES**

The appellant in person  
P Siueva for Chief Executive of the Ministry of Social Development  
Interpreter

**DECISION**

**Introduction**

[1] The appellant appeals against a decision of the Chief Executive upheld by a Benefits Review Committee declining his application for social housing.

**Background**

[2] The appellant and his wife and their three adult children arrived in New Zealand as refugees from Iraq on 23 March 2012. Initially, they were housed at the Mangere Reception Centre for refugees.

[3] The appellant recalled that approximately 10 days after he arrived at Mangere he was asked to sign an application to Housing New Zealand (HNZ) for housing. About five

days before the family were due to leave Mangere, they received advice that they were not eligible for social housing as the combined income of all members of the family was too high. As a result, the appellant and his family obtained private rental accommodation at a cost of \$400 per week.

[4] Initially, all three adult children lived with their parents at this property but in 2013 one son left, and in 2014 their daughter was married and left home. This resulted in a reduction in the income available in the household to pay the rent.

[5] In addition, since they started living in the house at XXXX Drive, the appellant's wife has experienced problems with asthma which the appellant says is a result of the dampness of the property. Apart from his wife's asthma, the dampness in the house affects his joints. He is obliged to take Voltaren for joint pain.

[6] On 5 September 2014, the appellant and his wife made a further application for social housing. An assessment was duly carried out. The assessment produced a priority rating of C8 which is classified as a "moderate need". This rating meant the appellant did not meet the criteria to be placed on the waitlist register for social housing.

[7] The appellant was advised of this. He sought a review of the decision. The matter was reviewed internally and by a Benefits Review Committee. The Benefits Review Committee upheld the decision of the Chief Executive. The appellant then appealed to this Authority.

[8] Before the Authority, the appellant's primary position was that he had been treated unfairly by people at the Mangere Reception Centre in relation to his application for social housing in 2012. The appellant said that all of the other refugees at the Reception Centre at the same time were allocated social housing. From his inquiries he now firmly believes that all refugees are entitled to social housing when they first arrive in New Zealand, regardless of the number of people in the household or the household income.

[9] The appellant confirmed that the staff from Mangere had assisted in finding private accommodation for the family. His daughter had assisted by looking for accommodation on TradeMe. Initially, the house they rented appeared to be suitable, but when winter came the house was cold and damp. This was the main problem with their current accommodation. The landlord has supplied a gas heater.

[10] The appellant said that he had tried to find alternative housing in the private sector by asking amongst his friends, but the other houses in the market were too expensive.

[11] As at September 2014 the house at XXXX Drive was occupied by the appellant, his wife, his eldest son and his eldest son's wife. His eldest son is on a benefit. His wife has part-time employment at a supermarket.

## **Decision**

### *2012 application*

[12] We have been able to confirm that the appellant made an application to HNZ in 2012 for social housing, but in accordance with policy the actual application has been destroyed. In 2012 the assessment of housing need was carried out by HNZ rather than the Ministry of Social Development. In response to the appellant's belief that all refugees were entitled to social housing, HNZ advise:

The Corporation did not have a specific policy relating to housing quota refugees. Applications for housing from quote refugees were processed using the normal social housing criteria, which all applicants were assessed by. If an applicant's income was in excess of the criteria then they would not have been eligible for housing. Being a quota refugee of itself has never equated to eligibility for Housing New Zealand property".

[13] From this information, we conclude that there was no policy that refugees would automatically be allocated a Housing New Zealand property. We accept this advice. We would have been surprised if HNZ had such a policy. The appellant is mistaken in his belief that such a policy existed.

[14] The Authority has also confirmed with HNZ that if, in 2012, a house was sought which was big enough to accommodate all of the appellant's adult children, then the income of the adult children would have been taken into account in assessing entitlement. It would be only if the appellant and his wife sought accommodation solely for themselves (which would have been a one-bedroom house) that only the income of the parents would be taken into account.

[15] We appreciate that the appellant has observed others from his group of refugees being allocated state housing, but there are a number of factors which go into the allocation of state housing. Simply being a refugee is not a criteria which results in automatic qualification.

### *Assessment of 2014 application*

[16] Section 101 of the Housing Restructuring and Tenancy Matters Act 1992 authorises the Ministry of Social Development to manage applications for social housing, including assessing the eligibility of prospective tenants to be allocated social housing and assessing their housing needs.

[17] Pursuant to s 102 of that Act, the Minister has issued a direction in relation to the social housing. The *Gazetted* Direction provides that a person must continue to have a persistent housing need that is:

- (a) serious; or
- (b) severe and must be addressed immediately.<sup>1</sup>

[18] In determining whether a person continues to have a housing need, the agency must have regard to the following factors:<sup>2</sup>

- (a) Affordability;
- (b) adequacy;
- (c) suitability;
- (d) accessibility;
- (e) sustainability.

[19] Each of these terms is defined in clause 3 of the Direction.

[20] Further detail as to how housing need is to be assessed under each of these criteria is set out in policy guidelines. Points are allocated on a scale of 1 to 4 to each category, with a 4 rating being high risk.

[21] A rating in a range of A–D is then given according to the number of points scored. This rating is generated by a computer. If the highest rating is 4 and any other rating is greater than 1, the segment is A. If the highest rating is 3 and any other segment is greater than 1, the segment is B. If the highest rating is 3 or 4 and all other ratings are 1, the segment is C. We have reviewed the Ministry's allocation of points in relation to each of the five categories.

### *Affordability*

[22] Affordability is defined in the Direction as meaning whether a person (including any other person who would, together with the person, be an applicable person in relation to any social housing that may be allocated to the person) can afford (with any financial assistance and resources available to them) suitable housing other than social housing, in accordance with the calculation in Schedule 1.

[23] This criteria focuses on ability to afford alternative suitable housing in the private market.

---

<sup>1</sup> Ministerial Direction on Eligibility for Social Housing, clause 7.

<sup>2</sup> Clause 7.2.

[24] The calculation in Schedule 1 requires, first, for the net weekly income of the “person” to be calculated. The term “person” includes any other person who would, together with the person, be an applicable person in relation to any social housing that may be allocated to the person. Applicable person in relation to any social housing means every person to whom the housing is to be let and includes every person who is the spouse or partner of such a person. Hence, if the appellant seeks housing to accommodate himself, his wife and his adult son, the income of everyone in the group will be taken into account. In this case, the household income was assessed to be as follows:

XXXX	\$174.21
XXXX	\$174.21
XXXX	<u>\$209.06</u>
	\$557.48

[25] The next step requires the calculation of the lower quartile weekly rental in the area the person needs to live, minus the weekly amount of Accommodation Supplement payable under the Social Security Act that the person may be eligible to receive. This is Total B. In this case this amount was calculated to be \$192.00.

[26] Step three requires Total B to be subtracted from Total A which gives Total C (\$365.48). Total C must then be divided by the weekly unabated rate of main benefit the person is receiving or would receive for that household type, and then multiplied by 100. This gives a ratio or indication of the applicant’s income which would be needed to theoretically meet their accommodation cost in the private sector. In this case, the result is 65% of total income. The Ministry’s criteria specify that where the ratio is between 56 and 69 per cent, the need can be classified as moderate and two points awarded.

[27] The Ministry have allocated two points in relation to affordability in this instance. We accept this assessment.

### *Adequacy*

[28] Adequacy is defined in Clause 3 of the Direction as whether the reason a person needs to move from their current accommodation is because that accommodation is not fit for habitation or is in a serious state of disrepair that presents a severe and significant health and safety risk to the occupants. The related policy focuses on the physical condition and structure of the tenant’s current house and availability of basic facilities. The appellant did not point to any lack of basic facilities in his current home. While the dampness of the house impacts on Mrs XXXX’s health, in assessing health-related

matters due to excessive dampness under the adequacy criteria, the criteria require that the dampness cause severe health issues. From the appellant's description of his wife's asthma condition we are not satisfied that her condition could be characterised as severe. Rather, it appears that the issues relating to Mrs XXXX's health should be considered under the suitability criteria. Accordingly, we accept that the allocation of one point in relation to the assessment of adequacy was correct.

### *Suitability*

[29] Suitability is defined in the Ministerial Direction as meaning whether the person's household needs to move from the current accommodation, having regard to—

- (a) security of tenure of current accommodation (for example how immediate is the person's need to leave their current accommodation);
- (b) medical, disability, or personal needs that are contributing to the person's need to move from their current accommodation;
- (c) the degree to which the property is overcrowded having regard to the guidelines as set out in Schedule 2.

[30] The policy criteria require consideration of whether there is overcrowding in the house, whether there is security of tenure in relation to the current accommodation and whether there are medical, disability or personal needs.

[31] No issues relating to the size of the appellant's current accommodation or security of tenure were raised. However, the appellant says the house is damp and this has an impact on Mrs XXXX's asthma and on his joint pain. The appellant did not describe any particular aspect of the house that contributed to the dampness, but noted that they regularly open the windows and use heating. The Ministry assessed that there was a moderate safety risk to the appellant and his family's health in remaining in their current accommodation, and allocated 2 points. We agree with that assessment.

### *Accessibility*

[32] Accessibility is defined in clause 3 of the Ministerial Direction as meaning whether a person has access to housing other than social housing.

[33] The policy criteria measures the client's ability to access suitable alternative housing and considers whether the client's ability to access suitable alternative housing is impacted by:

- discrimination;
- lack of money;

- resources for bond, rent and furniture;
- availability of alternative housing in the area where the person currently lives or needs to live.

[34] There was no suggestion that the appellant and his family were experiencing discrimination in their efforts to obtain alternative housing or experiencing discrimination living in their particular location.

[35] The Ministry have assessed that although the appellant and his family do not have any savings in the bank, they would be able to obtain advances from the Ministry for any bond and rent. The Ministry say neither the appellant nor his wife had any advance debt as at 5 September 2014. They would have been able to obtain an advance of \$2,090.52 (being six times the married rate of benefit). Presumably they may also be entitled to a refund of the bond that they paid in relation to their current accommodation which could be applied to any new bond payable. The Ministry have assessed the risk rating in relation to accessibility as low, and awarded one point. We agree with this assessment.

### *Sustainability*

[36] Sustainability is defined as meaning the likelihood of a person being able to retain housing other than social housing, taking into account factors such as the applicant's money management skills, social skills and history of transience.

[37] This criteria considers whether the appellant's ability to sustain housing in the private sector is impacted by:

- difficulties in financial management;
- difficulties in social functioning and lack of social skills;
- a history of transience.

[38] There is no suggestion that the appellant and his family have had financial problems in sustaining their private sector housing or that they lack budgeting skills or have severe financial issues. The Ministry noted that the family may have moderate issues around social skills due to language barriers. Their English is limited, but they are engaged with social agencies that can act on their behalf and can translate for them. The Ministry assessed the risk as 2. We accept this assessment.

### **Conclusion on Assessment**

[39] The result of the assessment is as follows:

<b>Category</b>	<b>Points</b>
Affordability	<b>2</b>
Adequacy	<b>1</b>
Suitability	<b>2</b>
Accessibility	<b>1</b>
Sustainability	<b>2</b>
<b>Total</b>	<b>8</b>

[40] As a result of this assessment, because the appellant's highest rating is 2 and there is one other rating of 2, their segment is C and their overall rating is C8. A C8 rating indicates the appellant's housing need is not severe or serious. It does not therefore meet the criteria for the appellant to be placed on the social housing waitlist.

[41] We accept that the Chief Executive's assessment of the housing need of the appellant and his family was correct.

[42] The appeal is dismissed.

**DATED** at WELLINGTON this 13<sup>th</sup> day of November 2015

---

Ms M Wallace  
Chairperson

---

Mr K Williams  
Member

---

Lady Tureiti Moxon  
Member