



Aboriginal Housing Office Confirmation of Aboriginality Policy

September 2016

The Confirmation of Aboriginality Policy provides guidance on how to recognise and confirm the eligibility of a client who may be housed in AHO properties.



Family &
Community
Services



Aboriginal
Housing
Office



Document approval

The Confirmation of Aboriginality Policy has been endorsed and approved by:

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Chief Executive

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1 Purpose of policy

1.1 Purpose

This policy sets out the process of confirming a person's Aboriginality for the purpose of accessing Aboriginal housing and housing related services and products owned and/or managed by Aboriginal Community Housing Providers (ACHPs) under a contractual arrangement with the Aboriginal Housing Office (AHO).

1.2 Background and related policy

The AHO owns properties that are managed by FACS Housing and ACHPs that are registered by the AHO, in order to deliver housing management services to eligible Aboriginal people. This policy provides guidance on how to recognise and confirm the eligibility of a client who may be housed in AHO properties.

This policy has been developed in consultation with the Aboriginal community housing sector.

This policy should be read in conjunction with the following documents:

AHO

- Housing Services Policy Framework
- Employment Related Accommodation (ERA) Program Guidelines

FACS Housing

- FACS Housing - Recognition as a Tenant
- FACS Housing - Appeals Policy
- FACS Housing - Housing Pathways-Eligibility for Social Housing
- FACS Housing - Housing Assistance Options Policy
- FACS Housing - Evidence Requirement Sheet
- FACS Housing - Transfer Policy

2 Definitions

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
AHO	NSW Aboriginal Housing Office
LALC	Local Aboriginal Land Council
FACS HOUSING	Family and Community Services Housing

Term	Definition
ACHP	Aboriginal Community Housing Provider
CE	Chief Executive
HACP	Housing Aboriginal Communities Program
Aboriginal person	A person who: <ul style="list-style-type: none"> a) Is a member of the Aboriginal race of Australia, b) Identifies as an Aboriginal person, and c) Is accepted by the Aboriginal community as an Aboriginal person
Torres Strait Islander person	A person who: <ul style="list-style-type: none"> a) Is a descendant of an indigenous inhabitant of the Strait area within the meaning of the Commonwealth Act, b) Identifies as a Torres Strait Islander, and c) Is accepted by the Torres Strait Islander community as Torres Strait Islander.

3 Scope and application

This policy applies to properties governed by a contractual arrangement between the AHO and ACHPs for the provision of rental housing. It includes those managed under the Housing Aboriginal Communities Program (HACP).

This policy applies to properties managed on an interim basis by mainstream community housing providers that have service level agreements with the AHO.

4 Legislation

The legislation that informs this policy includes:

- *Aboriginal Housing Act 1998 (NSW)*
- *Aboriginal Land Rights Act 1983 (NSW)*
- *Residential Tenancies Act 2010 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Health Records and Information Privacy Act 2002 (NSW)*
- *Privacy Act 1988*
- *Corporations (Aboriginal and Torres Strait Islander) Act 2006*

5 Policy statement

The NSW Government through the AHO contracts housing providers to manage housing for Aboriginal tenants. This housing is to be targeted to Aboriginal people in need and delivered in accordance with relevant legislation, policy and contractual obligations.

This policy outlines the evidence required for an individual to confirm that they are an Aboriginal person for the purpose of accessing Aboriginal housing delivered under a contract with the AHO.

In order to be eligible for a property owned or managed by a housing provider under a contractual arrangement with the AHO, a person must be able to confirm their Aboriginality. The *Aboriginal Housing Act 1998 (NSW)* defines an Aboriginal person, as a person who:

- is a member of the Aboriginal race of Australia,
- identifies as an Aboriginal person, and
- is accepted by the Aboriginal community as an Aboriginal person.

5.1 Evidence for confirming Aboriginality

Confirmation of Aboriginality can be provided in any of the following three ways.

5.1.1 Letter from a Local Aboriginal Land Council (LALC)

A person seeking housing assistance is required to provide a letter of confirmation from their Local Aboriginal Land Council (LALC). The letter must be on the LALC letterhead and signed by either the LALC Chairperson or Chief Executive Officer (CEO) confirming acceptance as a member of the Land Council. This letter is deemed as proof of Aboriginality.

5.1.2 Letter from a registered Aboriginal organisation

A person seeking housing assistance is required to provide a letter of confirmation from a registered Aboriginal community organisation. The letter of confirmation must be from a registered Aboriginal community organisation that is:

- an Aboriginal association incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, or
- an incorporated Aboriginal community organisation where all members of the organisation are Aboriginal, Torres Strait Islander or both.

The letter must also:

- display the organisation's letterhead
- state that applicant is of Aboriginal descent, identifies as an Aboriginal person, and is accepted by the Aboriginal community as an Aboriginal person

- state that the person's Aboriginality has been confirmed and resolved at a duly constituted meeting of the organisation's governing body
- be signed in accordance with the rules of the organisation.

5.1 Statutory Declaration

If neither of the first two confirmation options are possible, a Statutory Declaration can be used. A Statutory Declaration must only be used in circumstances where an individual is unable to provide evidence from a LALC or Aboriginal Corporation and must explain why a letter from a LALC or an Aboriginal corporation were not able to be obtained.

Evidence must also be provided to assist in the determination of Aboriginality and this includes, but is not limited to:

- details of the client's Aboriginal family (i.e. family names and where the family are from (Country) and/or what steps are being taken to find further family details/history)
- a statement that the client identifies as an Aboriginal person
- letters of support from Aboriginal community members, Aboriginal organisations (on the organisation's letterhead) or government agencies that the client is known to

The housing provider may request additional information or seek further clarification regarding information provided in the statutory declaration.

5.2 Right of Appeal

ACHPs and FACS Housing are required to have an appropriate process in place to manage appeals from applicants and tenants in relation to housing and confirmation of Aboriginality.

ACHPs and FACS Housing are required to have a process in place to advise applicants and tenants about their right to an internal appeal. This process should detail timeframes, explain what decisions can be appealed and outline specific processes to lodge an appeal.

ACHPs are required to provide capacity for independent reviews of their assessments and allocation appeals. Furthermore, ACHPs are required to advise applicants and tenants of their right to request an independent review and information on the process to request a review.

5.3 Confidentiality

ACHPs are required to ensure that confidential and sensitive business information and records are kept secure and protected from unauthorised access or use.

ACHPs must not release any confidential or sensitive information to a third party without the prior written consent or approval of the affected person or agency that owns the information.

5.4 Privacy

ACHPs must comply with national and state privacy legislation. This involves ACHPs protecting the personal information and privacy of applicants, tenants and household members.

ACHPs must ensure that any personal and/or health information is not collected, used, stored or disclosed other than for the proper purposes of these services. Personal information and/or health information must not be released to or exchanged with an unauthorised third party unless the informed consent of the person affected is obtained or access is lawfully authorised or required.

Applicants and tenants must be notified that information about persons included in the application can be exchanged with the AHO. This is likely to occur in instances where consent has been provided to another social housing provider and for the purposes of assessing their application.

6 Roles and responsibilities

To ensure all Aboriginal people and Torres Strait Islanders are entitled to all specific programs and housing services offered to confirmed eligible clients, the main roles and responsibilities for the implementation of this policy are as follows:

1. the AHO Chief Executive will endorse and approve the policy and all related documents necessary to implement the policy,
2. ACHPs and FACS Housing managing AHO properties are responsible for ensuring that their policy is consistent with this policy set by the AHO
3. ACHPs and FACS Housing managing properties under a contractual arrangement with the AHO are responsible for ensuring this policy is adhered to
4. the AHO Director, Housing Client Services is responsible for ensuring that this policy is being adhered to by contracted ACHPs, consistent with the Contract and Performance Monitoring Framework and Contract Compliance Policy.

7 Monitoring, evaluation and review

This policy will be reviewed and updated where and when any significant new information, legislative or organisational change warrants amendments to this document. This may require consultation to reflect strategic developments and direction.

It is the responsibility of the AHO to monitor and update this policy when required.

8 Support and advice

Support and advice about this policy can be obtained from:

- AHO - Policy, Programs and Design Innovation Unit
- AHO Regional Office

If you are reviewing a printed version of this document, please refer to the AHO website to confirm that you are reviewing the most recent version of the policy.