

# RENTAL HOUSING TRIBUNAL



ANNUAL REPORT 08/09

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# ANNUAL REPORT

## 1 APRIL 2008 TO 31 MARCH 2009

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## FOREWORD BY CHAIRPERSON

It is with pleasure that we submit this annual report, covering the period 1 April 2008 to 31 March 2009, to the Provincial Minister for Housing and to Parliament.

We wish to thank all the members and support staff for their continued and unwavering support and dedication to the functioning of the Tribunal and the service provided to the public at large.

The attached report is by its nature intended to be a reflection of the activities of the Rental Housing Tribunal over the reporting period.

In last year's annual report we had the pleasure of advising that the Tribunal had overall for the first time in its existence managed to meet its legislative prescript of resolving matters within the 90 day period prescribed by the Act. We had advised that there would be challenges, both in capacity and resources, to continue meeting this achievement. The past year has seen an attempt to reduce the turnaround time and has been largely effective but has shown some serious structural problems which, if not resolved, could lead to the effective work of the Tribunal slipping and once again reverting to its not meeting its legislative mandates.

We will touch briefly on these issues or lessons so that the MEC together with the Tribunal can seek solutions which will continue to make the Western Cape Rental Housing Tribunal one of the leading institutions in the provision of service delivery to the communities of the Western Cape.

The level of support provided by the Department and lack of understanding of its role as a support agent to the activities of the Tribunal is probably the most challenging aspect to the effective functioning of the Tribunal which, if left unattended, will probably lead to the Tribunal being unable to retain staff and members as well as causing the Tribunal to possibly not being able to sustain meeting its 90 day deadline. Both the MEC and Tribunal have committed to harmonizing this relationship through enhancing the levels of support and communication.

In addition, the remuneration levels of staff and members are leading to low morale and a disenchantment with job satisfaction that impact negatively on the effective functioning of the Tribunal. Though the principle of similar work for similar pay was agreed upon both at a national level and by the previous MEC, the Western Cape members continue to receive payment that is effectively a third of what members of the Gauteng Tribunal are paid for doing exactly the same work.

For the past eight years the Tribunal has not been in control of its budget, and the combination of non-disclosure and lack of control over its budget hamper effective planning and leads to inefficiencies. This was pointed out to the external auditors two years ago. It was brought to the attention of the auditors that it is not financially sound that the same person from the Department, who authorizes payments, is also the person who is responsible for the check and balance control.

Section 12 (1) of the Act, provides that “the activities of the Tribunal must be funded from moneys appropriated by the Provincial Legislature.” These activities and monies are supposed to be informed by the needs of the Tribunal itself. This has never happened despite numerous attempts by the Tribunal to give input to the budget, obtain copies of the budget or to exercise control of expenditure from its budget.

There is an impression that Tribunal processes are Departmental processes and an “administrative function” and that the Department is in charge of these functions. This poses a serious threat to the independence of the Tribunal as it may appear that the Tribunal is part of the Department as opposed to an independent body which, though funded through the Department, has control over its own staff and processes. The implication of the Tribunal not being seen as independent is that many of the tenants who reside in any form of government stock may be reluctant to exercise their rights provided under the Act.

The increasing down turn in the economy continues to play itself out and it will become more critical that the services of the Tribunal are marketed to all communities. A campaign to educate both landlords and tenants will go a long way to ensuring that proper processes are followed in harmonizing the relationship between these often opposing parties when it comes to diminishing sources of income.

With the new drive, nationally and provincially, to provide rental stock to our communities, education of the communities in respect of both their rights and more importantly their responsibilities is going to require active interventions if we are to reduce the potential for misunderstandings in the rental sector. The present thoughts of getting the private sector more involved and the use of tax rebates, the re-look at the service charges being charged to high density dwellings to make them more affordable, and the possible introduction of rental subsidies will go a long way to alleviating some of the more pressing needs of our communities for secure forms of shelter.

As an overall picture, the performance of the Tribunal is best illustrated by the graph hereunder:

## TRIBUNAL PERFORMANCE



In conclusion, given the constraints that the Tribunal and its' staff operate under, the MEC, members and staff should be heartened by the sterling performance rendered and we hope that in the coming year the efforts to deliver an even better service to the public will be tackled with even more enthusiasm.

**Mr. S Patel**  
Chairperson

**28<sup>TH</sup> July 2009**

# **PART ONE: GENERAL INFORMATION**

## **1.1 Introduction**

The Western Cape Rental Housing Tribunal is set up in terms of section 9 of the Rental Housing Act (Act 50 of 1999), herein referred to as the Act. The purpose of this Annual Report is to appraise the MEC for Local Government and Housing of the activities of the Tribunal for the past financial year.

## **1.2 Legislative framework**

The following legislation provides fundamental principles and guidelines upon which the Tribunal operates:

- The Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
- The Rental Housing Act, 1999 (Act No 50 of 1999), as amended in terms of Act 43 of 2007;
- The Unfair Practice Regulations and the Procedural and Staff Duties Regulations published in terms of Act 50 of 1999;
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No 19 of 1998).

## **1.3 Vision**

The Western Cape Rental Housing Tribunal seeks to harmonise relationships between landlords and tenants in the rental housing sector.

## **1.4 Mission statement**

The Western Cape Rental Housing Tribunal seeks to promote stability in the rental housing sector by facilitating the process of resolving disputes and advising landlords and tenants of their rights and obligations.

## 1.5 Key functions

- To promote stability in the rental housing sector;
- To provide mechanisms to deal with disputes in this sector;
- To promote the provision of rental housing property;
- To facilitate, investigate, mediate and conduct hearings to resolve disputes between landlords and tenants;
- To inform landlords and tenants of their rights and obligations should unfair practices arise; and
- To make recommendations to relevant stakeholders regarding issues to be addressed in the rental housing field.



## **PART TWO: HUMAN RESOURCE MANAGEMENT**

### **2.1 Personnel arrangements**

The administrative and technical support functions are performed by the staff, effectively seconded to the Tribunal by the Department of Local Government and Housing. These personnel are appointed subject to the laws governing the Public Service and perform functions related to the support of Tribunal activities.

### **2.2 Personnel and related information**

The members of the Tribunal are:

<u>Name</u>	<u>Capacity</u>
Mr S Patel	Chairperson
Ms M Wotini	Deputy Chairperson
Ms T van der Hoven	Member
Ms V Marks	Alternate Member
Ms S Ndlwana	Alternate Member
Mr J Kuiler	Member ( till May 2009)

The two positions which have become vacant have been advertised in 2009 and the new members are to assume duties in August 2009.

The members of the Western Cape Rental Housing Tribunal remained the same for the reporting period. The additional members will contribute greatly to the effectiveness of the Tribunal, especially given the increasingly important role that rental housing will play in housing the people of the Western Cape.

The Tribunal has been operating without a Manager for 11 months. The implications of this have been additional responsibilities and burden on the staff, insufficient managerial capacity requiring increased effort from everybody to sustain the system.

To the credit of the staff and members, they have been able to maintain and even lower the average turnaround time for the reporting period.

## 2.3 Expenditure

Expenditure in respect of the remuneration of Tribunal members and support staff for the financial year is as follows:

<b>Staff</b>	<b>Amounts</b>
Members	R 1,147,096,68
Support Staff	R 2,728,331,98
<b>Total:</b>	<b>R 3,875,428,66</b>

## **PART THREE: PERFORMANCE OF THE TRIBUNAL**

### **3.1 Strategic objectives**

The Tribunal has set the following strategic objectives for itself:

- To meet the 90 day time-frame stipulated in the Rental Housing Act (Act No 50 of 1999)
- To raise public awareness of the Rental Housing Act
- To enhance the management of the rental housing sector
- To provide sustainable systems for the resolution of disputes

These Strategic Objectives, although determined in previous reporting periods, are still applicable for this reporting period as they are still very relevant. It has become critical to have a follow-up strategic planning session to streamline and/or enhance these strategic objectives.

### **3.2 Review of activities**

#### **3.2.1 Staffing**

The following vacant positions were filled during the reporting period:

Case officers x 1

The Manager resigned in May 2008 and the Complaints Manager has been acting in the position since mid-July 2008 to date. The subsequent lack of capacity has had the implication that staff training and gearing up for the implementation of the Amendments to the Act has been neglected.

The need for two positions of senior case officer were discussed and agreed with the Department for approval in August 2008, but this capacity problem has not yet been addressed.

The naming of the position of Principle Technical Case Officer was changed to Senior Technical Case Officer but has remained vacant for the past five years.

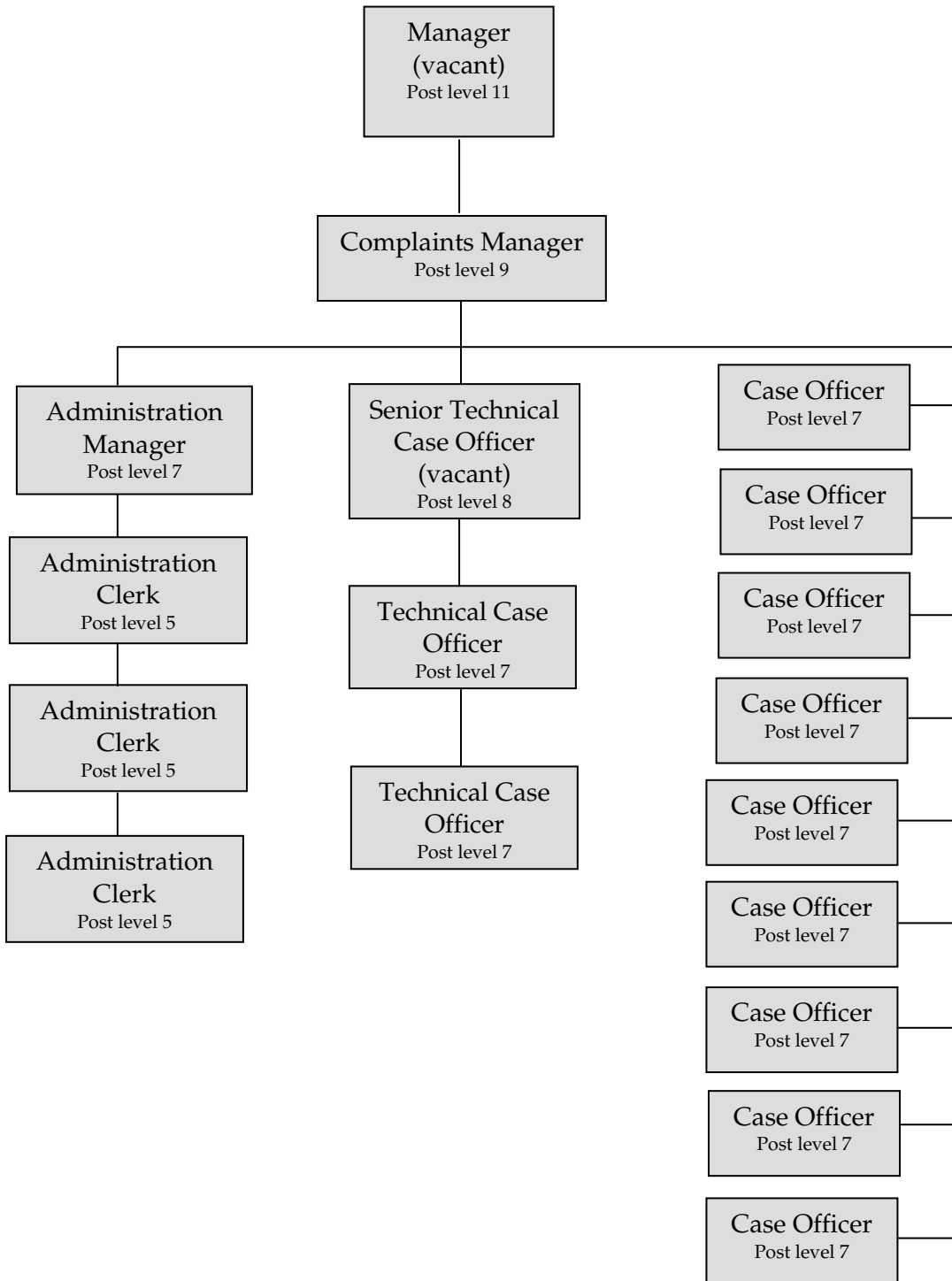
An opportunity to assist a person with a disability was used to add value to that person's skills base by exposing them to all aspects of the administrative side of

the Tribunal. The person has proved invaluable in terms of loading information onto the case management system while also bolstering the administrative component of the Tribunal.

The possibility of obtaining contract workers to load information with the view of obtaining a proper analysis and review of trends and potential problem areas from 2001 onwards was discussed with the Department and we still await feedback on this.

A case officer resigned during the reported period and this position has to date, not been filled.

The Support Component consists of the following posts:



### 3.2.2 Raising awareness of Tribunal activities

No activities were undertaken during the period in question, as there were not sufficient funds and/or capacity.

### 3.2.3 Call centre

Statistics provided for the reporting period are set out in Figure 1.

Figure 1:

<b>MONTH</b>	<b>CALLS</b>	<b>FORMAL COMPLAINTS</b>
April	1254	7
May	1169	2
June	1092	0
July	1204	2
August	*	*
September	1396	0
October	1737	0
November	1374	0
December	714	0
January	1183	0
February	1036	1
March	*	*

\* Figures not available

The Call Centre contract was terminated with the Dialogue Group and will continue with 118 Contact (who were the successful tenderers) in the next reporting period. A handover has been done, and most of the Dialogue Group staff has been retained, to ensure continuity of service.

Without capacity, it has not been possible to examine and critically analyze the data provided and it is hoped that with the appointment of a manager, this will be

undertaken this year.

To date, management has not been able to critically analyze the information to determine suitable interventions. The viability of continuing the expenditure on the cost of the call centre versus the cost of employing more administrative staff or case officers to field calls will need to be examined.

### **3.2.4 Computerised Case Management System**

A Case Management System for the Tribunal has been implemented, but testing of reports and final adjustments to the system are still in progress, to ensure that it can provide the support and information needed. The idea behind this aid is to provide an invaluable management and information tool to be able to effectively manage the cases and to predict trends. The delays since inception and the inability of the system to provide meaningful information is a cause for concern.

### **3.2.5 Implementation of Amendments to the Act**

Inputs were provided on the National Regulations to the Rental Housing Act, as amended.

The National Regulations will replace the current Provincial Regulations, due to the fact that the Act that is being implemented is a National Act. These Regulations, once finalised, will be operative and will have to be implemented in the Province.

The implications of the Amendments to the Act and the proposed Regulations, are that the whole methodology, systems and structure of the Tribunal will have to be revisited, to give effect to the proposed National changes.

To date, no systems to accommodate the Amendments to the Act have been put into place and there is currently a “debate” with the Department who is supposed to give support to the Tribunal, as to why no provisions have been made for these changes in the current budget. The Department claims that there is no budget provision or that no monies were appropriated to implement these changes and lack of capacity. This problem will only be resolved by the intervention of the MEC or Parliament. If no resolution is achieved, the Province will be lagging behind with the implementation of the Amendments. It will also be failing in ensuring that the benefits of the Amendments are passed to the communities which we are tasked to serve.

### 3.2.6 Hearings of the Tribunal

A total of 224 hearings were conducted in the reporting period with 26 cases being postponed, compared to 220 hearings in 2007/08.

Hearings outside of Cape Town are held as close as possible to the point of complaint and the Tribunal is therefore dependent on the infrastructure provided by the local authorities. Hearings were held in George, Franschhoek, Bredasdorp, Vredenburg, Vredendal, Oudtshoorn, Prince Albert, Grabouw, Worcester and Hermanus – a total of 21 hearings outside of the Metropole.

It is concerning that so few rental disputes/complaints are coming from outside of the Metropole, could possibly be attributed to the fact that no marketing of the Tribunal is done outside of the Metropolitan area, and clients both within the Metropole and the rest of the Province are possibly not aware of the service that is being offered by Government.

### 3.2.7 Help Desk

Statistics provided for the reporting period are set out in Figure 2.

Figure 2:

April	112
May	86
June	104
July	134
August	101
September	124
October	131
November	151
December	111
January	120
February	151
March	132



### 3.3 Performance of the Tribunal

- A total of 1237 cases were opened during the reporting period, compared to 904 in the previous year. Of the 1237 cases, 1186 were finalised.

A comparison of the number of cases per year is set out in Figure 3.

Figure 3:

NUMBER OF CASES PER YEAR							
2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08
102	120	233	299	352	487	767	904
	+17%	+94%	+28%	+17%	+38%	+57%	+17%
2008/09							
1237							
+37%							

Figure 3 shows that there was a significant increase in the number of cases per year from 2007/08 to 2008/09 i.e. 37%.

A comparison of the number of cases closed per financial year is set out in Figure 4.

Figure 4:

CASES CLOSED IN A FINANCIAL YEAR							
2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08
0	152	169	182	294	359	663	526
2008/09							
1186							

This shows the increase in the number of cases that are, and have been dealt with, due to extraordinary efforts by the Support Staff and the change in emphasis which occurred during the reporting year. The “down side” of this

intervention is that there had to be more direct intervention on the workings of the Tribunal staff by the Tribunal itself. This had also caused additional pressure to concentrate on achieving the Tribunal objectives in terms of meeting its deadlines at the expense of staff morale and some of the management functions in terms of evaluations and ongoing training of the staff being given a lower priority.

Figure 5:

<b>DURATION OF CLOSED CASES</b>							
2000/2001		2001/2002		2002/2003		2003/2004	
Complaints	Duration	Complaints	Duration	Complaints	Duration	Complaints	Duration
per year	(Months)	per year	(Months)	per year	(Months)	per year	(Months)
102	15.9	120	5.8	233	7	299	8.7
2004/2005		2005/2006		2006/2007		2007/2008	
Complaints	Duration	Complaints	Duration	Complaints	Duration	Complaints	Duration
per year	(Months)	per year	(Months)	per year	(Months)	per year	(Months)
352	11.7	487	7.9	767	6	904	3
2008/2009							
Complaints per year	Duration (Months)						
1237	2.5*						

\* this figure is based on an average over 702 cases as not all information has been loaded onto the case management system.

An active education and marketing campaign needs to be implemented to educate landlords and tenants around their rights and responsibilities and the prescripts of the Rental Housing Act. Changes in legislation such as the new Regulations which are to be passed soon will mean that the Tribunal will have to deal with more cases and this will put more pressure on the capacity of the Support Staff.

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