

New England and Western Tenants Advice and Advocacy Service Inc.

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Ms Jenny Leong

Chair

Legislative Assembly Select Committee on the Residential Tenancies Amendment
(Prohibiting No Grounds Evictions) Bill 2024

By email: NoGroundsEvictionsBill@parliament.nsw.gov.au

Dear Committee

Thank you for the opportunity to make the following submission to the Select Committee in reply to the question on notice, as detailed below:

Maybe we could ask on notice if you could provide more detail about what you were saying in terms of the portal access and the online system in terms of what's done and what the TAASs don't have access to versus what the real estate agents have in terms of doing it on people's behalf. Maybe provide that collectively and you can provide a bit more detail around that on notice.

As part of assisting tenants to resolve their tenancy issues, NEWTAAS and other TAASs within the Tenants Advice and Advocacy Program helps tenants to lodge applications to the NSW Civil and Administrative Tribunal (NCAT).

Many people are competent to effectively represent their own interests, and need only advice and guidance on how to proceed. However, there are a significant proportion of tenants who need a higher level of assistance.

This group of tenants includes people who may struggle with literacy and complex forms, may not have access to a computer or the capacity to use a smartphone to lodge an application. They may be elderly and frail, Aboriginal or Torres Strait Islander, or have a disability that makes accessing online services more difficult.

Before the integration late last year of NCAT into the Courts Online system through the development of the NCAT Online, we were able to use the rudimentary but functional online system of NCAT to help tenants to lodge their applications online.

For tenants who were unsuccessful in resolving their tenancy issue before proceeding to NCAT, we would arrange a phone appointment, copies of their Centrelink pension card (people on Newstart are not eligible to pay the reduced fee, only pensioners) and for the tenant to have a Visa debit card to pay the application fee. Where we had agreed to represent

the tenant, we would then go through the online lodgement form with them and complete it for them, adding NEWTAAS as a secondary address for them. We could log into the eServices record to check hearing dates for tenants. It was clunky, but it worked.

Courts Online is primarily used by professionals, and operates to provide representatives with the capacity to make applications on behalf of clients, upload secondary documents and make a variety of applications as the matter proceeds. They can see the documents uploaded and orders made.

That's how it works for solicitors and real estate agents. Social housing landlords such as community housing providers, Homes NSW and the Aboriginal housing providers are able to make their own applications.

The Courts Online system of which NCAT Online is a part allows only for representatives to be legal practitioners, real estate agents or authorised representatives of large housing providers. There is no way for a tenancy service that is not part of a community legal service to tick the box for representative.

We have therefore had to register as litigants. Clearly, NEWTAAS is not a litigant, but there is no place for us within the system.

Even worse is that the registration process for Courts Online requires multiple forms of identification and verification of identity documents. I have no doubt that the members of the Select Committee understand that there are often significant barriers for people to obtain identity documents.

If a tenant cannot jump through the hoops to set up an account that they can then use to lodge an application against their landlord, then they are trying to find alternative ways. We have had to make multiple representations for NCAT Registries and Service NSW access points to continue to accept paper applications.

I have attached to this explanation a copy of the email I sent to the NCAT Registrar [REDACTED]. When we discovered the issues with NCAT Online, a number of TAASs contacted [REDACTED] with their concerns. We were deeply concerned about the impact on tenants with low literacy and limited capacity to complete complex online documents.

I attended an AVL meeting with [REDACTED] and [REDACTED] of the Eastern Area Tenants Service. I went in hopeful that there would be a speedy resolution to the issue and came away convinced that no changes would be made. No changes have been made to the online interface.

I told the Select Committee that NEWTAAS provides a duty advocacy service to NCAT hearings in our region, 55% of NSW. We can only manage that logistically by using the AVL access where we log into a hearing for a tenancy list. If a tenant has attended the hearing in person or by phone or AVL, we are available to give them advice, help them negotiate with their landlord, or represent them if they are unable to reach an agreement. The presiding Tribunal Member will often note that a copy of the orders are to be sent to NEWTAAS.



We can't link NEWTAAS to a tenant within the online system. We are required to write to NCAT Registry to ask that we be linked to the file. Even when linked, we cannot see the documents or orders, we can only see the next hearing date and lodge secondary forms.

Courts Online, and now NCAT Online, appears to us to be primarily used by professionals, representative solicitors, real estate agents and authorised representatives of landlords.

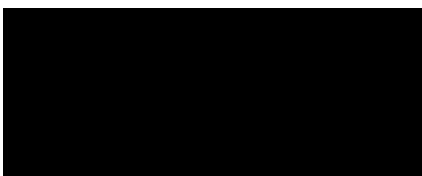
My colleagues and I will be very interested to see the NCAT application numbers for this year. As illustrated in our original submission to the Select Committee, overwhelmingly the majority of tenancy applications are made by landlords and their representative real estate agents. I consider that NCAT Online will provide an additional obstacle to the few tenants who apply.

Most tenants aren't legal professionals with experience of navigating complex online systems. They just want the repairs done. They are people living in their homes who think that the rent increase notice they've received is excessive, or that a termination notice they've received is retaliatory.

If the tenants can't get past the first hurdle of registering for an account, they're stuck. There's nowhere on the NCAT website that says if you can't register online, lodge a paper application form at Registry or Service NSW. The option is to apply online.

Tenants Advice and Advocacy Services are funded by Fair Trading NSW. Our organisations have contracts to deliver information, advice, advocacy and representation to renters in our regions. It seems absurd to me that we have a contract that requires us to represent tenants in NCAT, and that the primary point of access to NCAT, NCAT Online, refuses to recognise that we are representative organisations with professional staff who work with tenancy law every day.

I'm very grateful for your interest, and hope that this submission has provided you with additional information.



KerryAnn Pankhurst
Service Manager

5 August 2024



NEWTAAS Administration <newtaas.admin@gmail.com>

NCAT online registry - teething issues NEWTAAS

1 message

NEWTAAS Administration <newtaas.admin@gmail.com>

22 November 2023 at 14:56

To: [REDACTED]

Bcc: [REDACTED]

Hi [REDACTED]

I am contacting you directly to advise that there are serious issues arising from the introduction of the NCAT online services and to ask for the very speedy resolution of these issues. I appreciate that this is not something I would normally do, however I consider it vital to bring this to your attention.

NEWTAAS is a community organisation that is not auspiced by a community legal centre. Of the seven Tenants Advice and Advocacy Services who regularly appear before NCAT in matters managed by the Tamworth Registry, six are not part of CLCs.

I have watched the videos and read the user guides in detail. As you know, at NEWTAAS we are competent users within online environments. Even so, it has been a struggle for us:

- * my own user registration is caught in a loop requiring me to "continue the identity verification process or contact us if you need help." On the Contact Us page, there is no contact for NCAT listed. I have been speaking with [REDACTED] at the NCAT help desk. This has now been looping for 24 hours. My registration is not confirmed, despite providing three forms of identification.

- * [REDACTED] was able to register.

- * [REDACTED] was able to register.

- * [REDACTED] was not able to verify her email address since yesterday until an hour ago, when the verification notice to confirm the email address arrived. That link returns an error, "Bad Request Your browser sent a request that this server could not understand." There is no way to move the registration forward.

- * [REDACTED] was not able to verify her email address, and no verification notice has arrived.

On a brighter note, we were able to register NEWTAAS as an e-Organisation. We did this by using [REDACTED] account to set it up. We had to choose between Legal Practitioner and Litigant. As instructed by the user guide, we chose Litigant and completed the registration.

We had received emails from NCAT Registry 20/11/2023 with new file details, including case numbers and document barcodes, and therefore attempted to link our client's cases. Unfortunately because our name is not our client's name, the only returned option for us is to register as the real estate agent. We could not register with our client's details. We can see that the real estate agent has registered for the landlord, but as we are not real estate agents, we cannot select that category.

I suggest that for the purposes of the NCAT online services, the tenant/TAAS relationship is very like the landlord/real estate agent. We have a contract with our client that sets down the terms of our representation and work for them.

I have not been able to understand how the Tenants Advice and Advocacy Services who are not CLCs have been left out of the considerations of the NCAT ICT team when the online registry environment was being modified for NCAT.

I was informed by Tamworth Registry that the cost recovery for documents being provided will be strictly enforced. As you are aware, a very considerable proportion of our clients are functionally illiterate. We cover seven of the ten most disadvantaged local government areas in NSW. They are often not able to provide us with documents. They often don't have email and may not have transport to drive to a community service. They can't explain or get the documents to us. We have often had to rely on NCAT's understanding of the guiding principle where we have not been able to find another way to get the tenant's documentation.

Having had some experience in using Courts online registry, being able to access the documents was going to be a much faster and easier process for us as the representatives of the tenant. However, the little oversight we had from the previous iteration of NCAT e-services has been lost, where we could at least find out when the next hearing was if it had been listed.

I am therefore asking that the strict adherence to the cost per page be held in abeyance until this issue of the effective operation of NCAT online services has resolved.

██████████ I understand this email sounds like a litany of complaints about the introduction of the online registry to NCAT. More than anything, I am concerned that if I, someone who is literate, used to working in an online environment and competent with tech, has struggled so much and cannot even register within the system, how is this going to work for the people most in need? Tenancy is overwhelmingly the greatest volume of NCAT work, landlords through their real estate agents are overwhelmingly the applicants.

For people who struggle to read and write, the current introduction is a great step backwards. In the past we were able to help people lodge online - now we cannot. Right now, we cannot use the system at all to make administrative requests or access documents. We are going to be lodging applications and evidence by mail, while the landlords and their agents have the capacity to access and act immediately. Who claims the bond first determines who has to lodge to NCAT. For a tenant, that lopsided process is now replicated even more within NCAT operations.

I will be very glad to assist your technicians in any way if they are able to find a way to add the non-CLC TAASs to the system as representative organisations rather than litigant organisations, and to link to the client's cases. I am happy to share screens so that they can assemble the logic chains necessary to resolve the issues.

I would also ask that Meeting IDs continue to be made available for TAASs. We are able to provide duty advocacy to all of the venues across our region only because we provide duty advocacy by AVL for hearings where we do not have an existing client. Without that facility, we cannot provide duty advocacy to such a large number of venues across the 55% of NSW that we cover.

I have gone into such detail so that this email can be sent to the techs who are running the system, and I'm asking for your urgent intervention to resolve these problems.

KerryAnn Pankhurst
Service Manager

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