

**Submission
No 17**

TENANCY MANAGEMENT IN SOCIAL HOUSING

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8 August 2014

The Legislative Assembly
Public Accounts Committee
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Committee Members,

RE: Inquiry into tenancy management in social housing

The Hunter Community Legal Centre welcomes the opportunity to contribute to the Inquiry into Tenancy Management in Social Housing. The HCLC is particularly interested in making recommendations on reform options relating to “the range and effectiveness of support services provided to tenants in social housing; the outcomes for tenants from current tenancy management arrangements; and possible measures to improve tenancy management services”.

About the Hunter Community Legal Centre

The Hunter Community Legal Centre (“HCLC”) is an independent, not for profit Community Legal Centre funded by the State and Federal Attorneys General Departments. The HCLC provides free legal advice and assistance services to disadvantaged people who live, work or study in the Newcastle, Lake Macquarie, Hunter Valley, Port Stephens and Great Lakes regions.

The HCLC provides a free duty solicitor service for unrepresented parties in Apprehended Violence Order (“AVO”) matters in the Newcastle Local Court. The HCLC also engages in law reform projects to address inequalities in the legal system that affects its clients.

Social Housing Report

In 2012, the HCLC assisted a number of social housing tenants through its AVO duty solicitor service who faced ongoing problems with their neighbours. This resulted in a law reform project aimed at encouraging Housing NSW to develop more effective and efficient procedures for resolving disputes

between tenants. In 2013, the HCLC received a grant from Community Legal Centres New South Wales (CLCNSW) to undertake a qualitative survey of social housing tenants in the Hunter Region. The survey asked social housing tenants to comment on any steps taken by their social housing landlord, or NSW Police, to help them resolve their neighbourhood disputes and to make recommendations about how the matters could be dealt with more effectively. The tenants were also asked to give their opinion on whether so-called 'problem tenants' should be evicted from social housing.

The results of the survey are contained in a report entitled "*The Right to Quiet Enjoyment in Social Housing*". A copy of this report is attached. The report examines the current range of support services provided to tenants in social housing and then makes recommendations about the improvement of tenancy management services. It is hoped that the case studies and recommendations in the report will be of use to the Committee

Any questions arising from this submission should be directed to [REDACTED]

[REDACTED] or [REDACTED].

Yours faithfully,

Bronwyn Ambrogetti

Managing Solicitor

Hunter Community Legal Centre



The Right to Quiet Enjoyment in Social Housing

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May 2014

**This material was produced with support from and in conjunction with
Community Legal Centres NSW**

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1. Background

1.1 About the Hunter Community Legal Centre

The Hunter Community Legal Centre (HCLC) was established in 1991 as an independent, not for profit, Community Legal Centre (CLC) funded by the State and Federal Attorneys General Departments.

The HCLC provides free legal advice and representation to disadvantaged people who live, work or study in the Newcastle, Lake Macquarie, Hunter Valley, Port Stephens and Great Lakes regions.

The HCLC provides free duty solicitor services for unrepresented parties in the Newcastle Local Court in relation to apprehended violence orders. A free duty solicitor service is also provided in family law matters in the Newcastle Family Court and Federal Circuit Court.

The HCLC also provides free legal advice by appointment in separation, divorce and parenting matters and to parents undertaking family dispute resolution at the Newcastle and Taree Family Relationship Centres.

The HCLC provides a Community Legal Education program for community groups and community sector workers on a range of legal matters and engages in research and advice on law reform to address inequalities in the legal system relevant to the needs of its clients.

1.2 About this research project

In 2012, the HCLC provided legal advice and representation to a number of social housing tenants who faced ongoing problems with their neighbours. Also in 2012, the HCLC presented a paper at the National Association of Community Legal Centres' National Conference which highlighted these issues and called for more to be done to protect social housing tenants' right to quiet enjoyment.

A law reform project was subsequently developed aimed at improving the existing procedures for resolving disputes between social housing tenants. In 2013, the HCLC received a grant from Community Legal Centres New South Wales (CLCNSW) to undertake further qualitative research into neighbourhood disputes in the context of social housing.

The initial research questions for the project were:

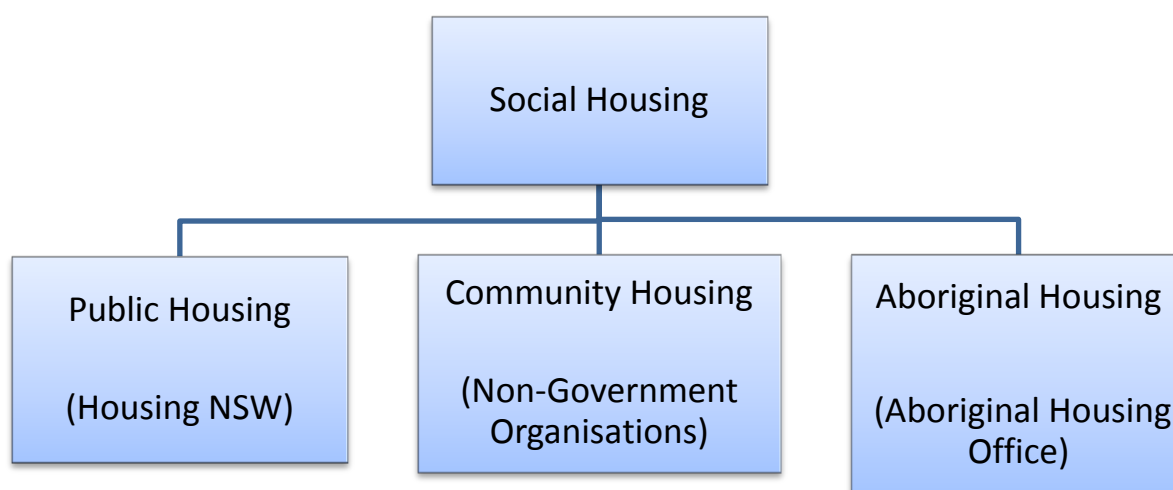
- What happens when a tenant with high needs moves into a social housing complex?
- Are the rights of other tenants, who may be subjected to difficult behaviour by these tenants, being upheld by the social housing landlord?

1.3 Key Terms

1.3.1 Social Housing

Social Housing is secure, affordable housing for people with low to moderate incomes who have a housing need. An applicant's household income must be within certain limits to be eligible for social housing. Priority access is generally given to households that are either homeless or in housing that is inappropriate.

Social Housing includes public housing properties owned or managed by Housing NSW or the Aboriginal Housing Office. It also includes housing properties managed by non-government organisations. This final category is often referred to as Community Housing. In the Hunter Region, the major community housing providers are Compass Housing and Pacific Link Housing.



Some survey participants lived in public housing complexes managed by Housing NSW. Others lived in Community Housing. A small group of participants had lived in both kinds of social housing in their lifetime. None of the participants lived in residences managed by the Aboriginal Housing Office.

1.3.2 Right to Quiet Enjoyment

All residential tenancy agreements in NSW are governed by the *Residential Tenancies Act 2010* (NSW) ('The Act'). Tenants have a number of rights under this act, whether they are in the private rental market, or living in social housing.

One such right is the 'tenant's right to quiet enjoyment'. This right is included in all residential tenancy agreements.¹ It is also included in the Housing NSW 'During a Tenancy Policy' and equivalent policy documents of other social housing providers.

¹ *Residential Tenancies Act 2010* (NSW), s50(4).

The Act provides that the landlord must not 'permit any interference with' the tenant's 'reasonable peace, comfort or privacy.'² In fact, it obliges the landlord to 'take all reasonable steps to ensure that the landlord's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant.'³ The provision places an obligation on all landlords to take positive action when they are aware that one tenant is interfering with another tenant's 'reasonable peace, comfort or privacy.' This obligation is explicitly expressed in the tenancy legislation in New South Wales, South Australia and Western Australia.⁴

The extent of the landlord's obligations under the NSW legislation was explored in the NSW Civil and Administrative Tribunal ('NCAT') case of *Ingram v Department of Housing*.⁵ The case related to the ongoing harassment of one social housing tenant by another. The harassment had been reported to Housing NSW on numerous occasions, yet no immediate action was taken to resolve the dispute. The tribunal held that the landlord, Housing NSW, had failed to take reasonable steps to stop the interference with their tenant's peace, comfort and privacy. In brief, they concluded that tenant's right to quiet enjoyment had not been upheld. Ultimately the tribunal ordered the social housing landlord to pay compensation to the tenant who had been harassed. The decision in *Ingram* has been followed in subsequent NCAT cases.⁶

Many participants in the present survey have reported similar kinds of harassment to that experienced by the applicant in *Ingram*. One aim of the HCLC's survey was to determine whether social housing providers in NSW are currently complying with their obligations under this part of the Act and whether the rights of social housing tenants are being upheld in practice.

² *Ibid*, s50(2).

³ *Ibid*, s50(3).

⁴ The tenancy legislation in the remaining states and territories recognises tenants' rights to quiet enjoyment, but does not explicitly mention interference by neighbouring tenants.

⁵ *Ingram v Department of Housing (Tenancy)* [2002] NSWCTTT 84 (8 May 2002) This case dealt with the now repealed s22 of the *Residential Tenancies Act 1987* (NSW) however that provision had the same substantive effect as s50 of the current Act.

⁶ See for example *Hula v Department of Housing (Tenancy)* [2009] NSWCTTT 606 (9 November 2009); *Seedhouse v Department of Housing (Tenancy)* [2004] NSWCTTT 610 (14 October 2004); *Parrot v New South Wales Land and Housing Corporation (Social Housing)* [2010] NSWCTTT 254 (9 June 2010).

2. Methodology

The HCLC received a grant from CLCNSW to undertake research into neighbourhood disputes in the context of Social Housing. The initial research questions for the project were:

- What happens when a tenant with high needs moves into a social housing complex?
- Are the rights of other tenants, who may be subjected to difficult behaviour by these tenants, being upheld by the social housing landlord?

The research project began with a review of current Housing NSW policies that relate to neighbourhood disputes, and a qualitative survey of social housing tenants living in the Hunter Region.

2.1 Telephone Surveys

The HCLC's student volunteers conducted telephone surveys with 17 social housing tenants. 15 tenants provided substantial responses which have been used in this report. The social housing tenants were asked a standard list of questions but participants were also given the freedom to raise issues tangentially related to the survey questions. Wherever possible the students recorded the participants' responses verbatim. Longer responses were summarised and paraphrased.

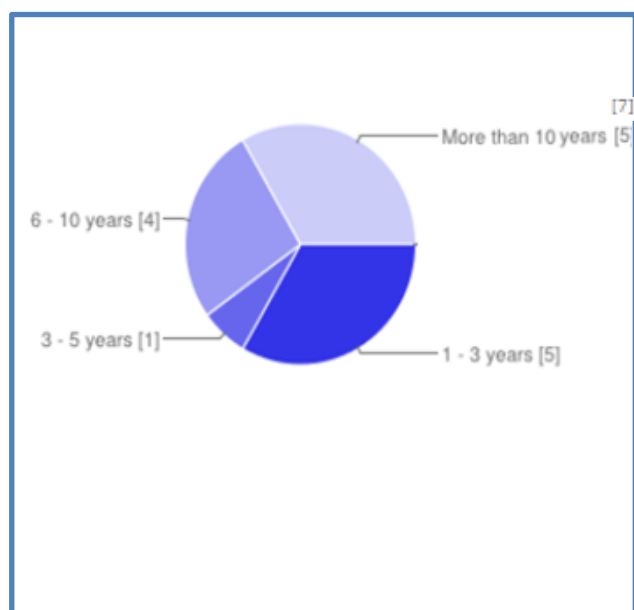
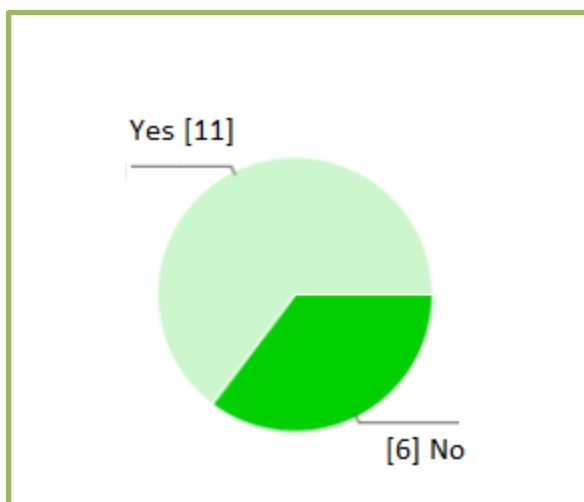
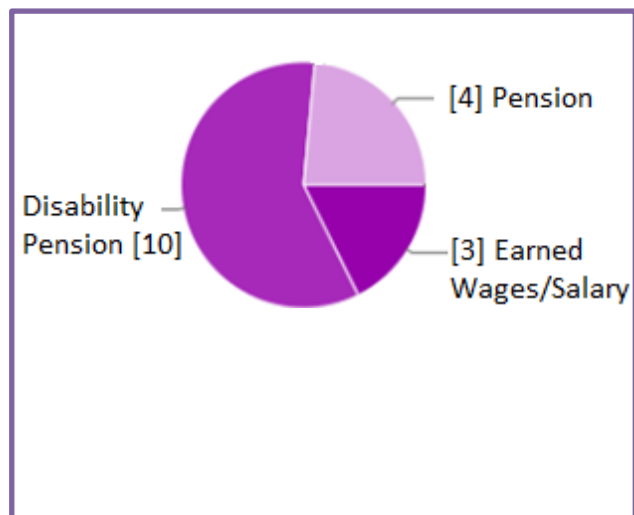
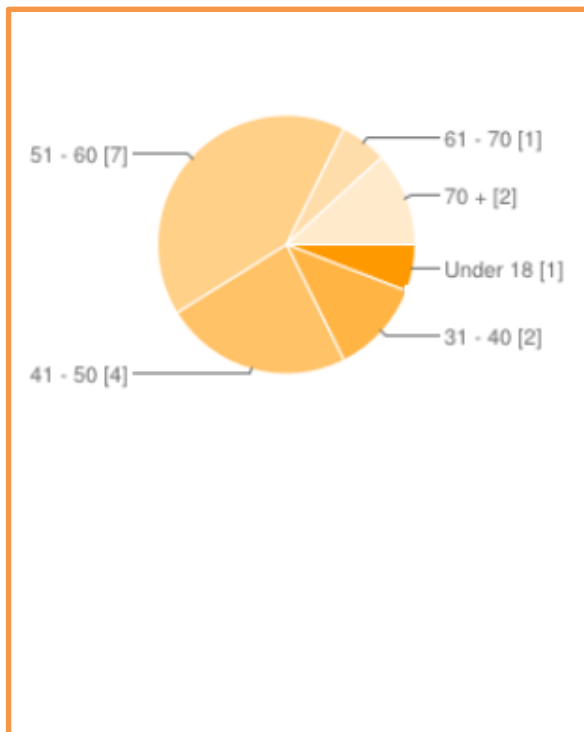
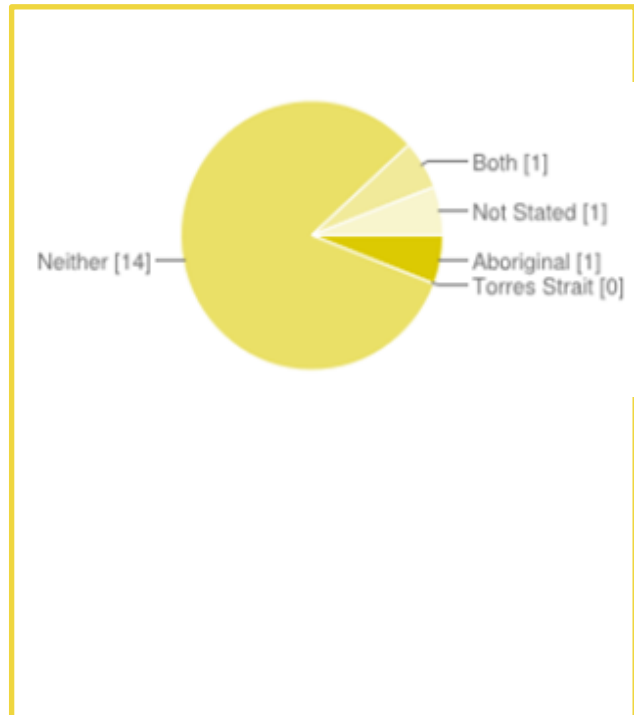
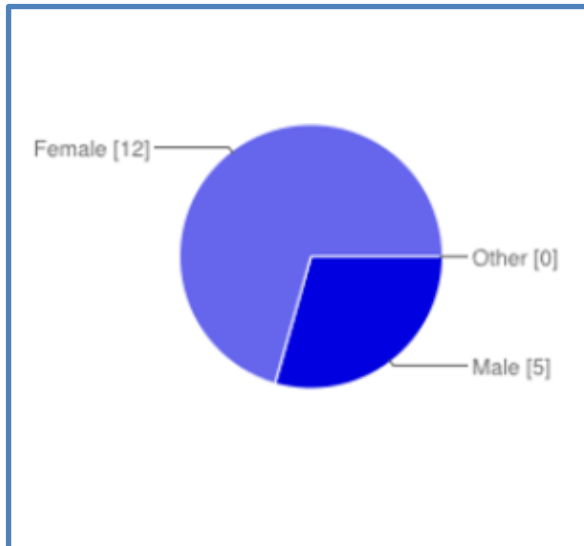
The survey asked participants to outline the problems that they had had with neighbours in the past, and to comment upon any attempts by the police or by their social housing provider to resolve the issue. Participants also commented on the use of apprehended personal violence orders (APVOs) as a means of resolving neighbourhood disputes. Finally each participant was asked to give their opinion on whether social housing tenants who cause serious problems for their neighbours should be evicted from social housing.

2.2 The Participants

All participants in the survey were current social housing tenants.

- All participants live within the HCLC's catchment area.
- The participants ranged in age from under 18 to over 80 years of age.
- Some participants have lived in social housing for just over 12 months, while others had been social housing tenants for over a decade.
- Two thirds of participants identified as having a disability of some kind.

2.2.1 Statistical Information about Survey Participants



1 – 3 Years	5
3 – 5 Years	1
6 – 10 Years	4
Over 10 Years	7

2.2.2 Selecting the Participants

Past HCLC clients, who had sought assistance with apprehended violence order matters or were otherwise seeking legal assistance to resolve neighbourhood issues and who lived in social housing, were invited to take part in the survey. Some of these participants provided contact details for other tenants who had also experienced neighbourhood disputes in social housing. This meant that in some cases multiple participants lived in the same social housing complex or had experienced problems with the same neighbour.

3. Social Housing Policy & Procedure

3.1 Strongest Housing Need Policy: Unintended Consequences

In the 1900s, social housing was targeted at low income working families.⁷ Since then the characteristics of social housing tenants has gradually shifted from working families to individuals with high needs who are often reliant upon government benefits.⁸

The NSW Government's Plan for Reshaping Public Housing was released in 2005. This plan clearly articulated the policy shift towards allocating public housing on the principle of 'strongest housing need.'⁹ This policy was largely driven by 'a desire to reduce homelessness and housing stress amongst high need households.'¹⁰

An unintended consequence of this policy is that it tends to result in situations where significant numbers of tenants with high needs are concentrated in densely populated housing complexes with insufficient support.

Shelter NSW conducted a number of focus groups with social housing tenants in 2011 to discuss the impacts that this policy shift had had upon their communities. The participants explained that when there is one tenant in a block who needs support due to an acute mental illness, disability or other reason, 'there will usually be at least a couple of tenants on each floor who are willing to provide support.' However they warned that if a number of high-needs tenants are allocated housing within the same dense complex then 'the stress on the "well tenants" becomes too great' and the "higher-needs tenants" start to have a detrimental influence on one another and on the surrounding tenants.'¹¹

This observation was echoed in comments made by participants in the present survey. Many neighbourhood disputes were sparked when there was a poor fit between a newly allocated tenant with high needs and an existing community that could not offer support to the new tenant.

The HCLC recognises that the task of making appropriate housing allocations is difficult given the chronic undersupply of social housing stock. The National Housing Supply Council has estimated the national shortfall in housing stock in 2011 was 228,000 dwellings.¹² This figure continues to grow.¹³

⁷ Louise O'Flynn 'Social Housing', New South Wales Parliamentary Library Research Service, *E-Brief 8/2011* (July 2011), 1.

⁸ Ibid, M Allen, 'The Transition of the Public Housing System to a Social Housing System' speech notes, Shelter NSW conference, the Shape of Public Housing (2008)

⁹ *The NSW Government's Plan for Reshaping Public Housing* (2005), 6.

¹⁰ Jon Eastgate, Paula Rix and Craig Johnston, *View from the Estates – Tenants' views of the impact of changes in eligibility and allocation policies on public housing estates*, (Shelter NSW, 2011), 18.

¹¹ Ibid, 19.

¹² Welfare Rights Centre 'Affordable Housing' 30:4 *Rights Review: News and Comment on Social Security Issues* (2013), 7.

Having said that, the fact that housing stock is scarce does not absolve social housing landlords of their obligation to uphold their tenants' right to quiet enjoyment.

3.2 Housing NSW Complaints Procedure

The complaints procedure for social housing tenants is not transparent. There does not seem to be a clearly identifiable complaints policy for Housing NSW that is easily available to its clients.

An online search for a complaints procedure only gives facts sheets for the tenants of Community Housing. Each community housing organisation has its own internal procedures. Significantly, there is no similar fact sheet for Housing NSW itself.

The most obvious starting point for Housing NSW tenants to make a complaint is by telephone, calling 1300 HOUSING. This is a call centre where clients can have very long waiting times just to speak to an operator. Tenants who wish to make a nuisance complaint about a neighbour are informed that they can lodge a "witness incident report". This is only available from a Housing NSW office or by being mailed to them. There is no online facility.

Once such a written report is lodged, it will be handled by a Client Services Officer. It is intended that this officer will be the person handling the complaint in its entirety. This officer will communicate directly with the person lodging the complaint and will keep them informed of any progress in the investigation of the complaint.

All of this information was discerned from speaking to call centre staff and staff at our regional office, rather than being a clearly written policy available to tenants.

3.3 Housing NSW's Good Neighbour Policy

Housing NSW's official policy on neighbourhood disputes is set down in their 'During a Tenancy Policy'. This policy includes a section on 'Being a Good Neighbour.' This section outlines Housing NSW's commitment to providing a 'fair and discrimination free living environment for all tenants.'¹⁴

The policy encourages tenants to 'resolve problems themselves' and makes it clear that 'it is not the role of Housing NSW to carry out criminal investigations.'¹⁵ Housing NSW states that it will not intervene in a neighbourhood dispute or investigate allegations unless one party has actually breached their tenancy agreement.¹⁶

If Housing NSW is satisfied that a breach of the tenancy agreement has occurred, they will 'take appropriate action against the tenant.'¹⁷ This action might include negotiating an agreement with a

¹³ Ibid.

¹⁴ Housing NSW, 'During a Tenancy Policy' Last Amended 24 June 2013.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

tenant to modify their behaviour, imposing visitor sanctions, applying for orders from NCAT or issuing a Notice of Termination.

In the HCLC's experience, Housing NSW is reluctant to take disputes to the NCAT on behalf of one tenant against another. That reluctance can disadvantage the tenant whose right to quiet enjoyment has been interfered with. It can also disadvantage tenants with high needs. Many survey participants were of the opinion that if the social housing landlord had intervened earlier in a neighbourhood dispute, it might never have escalated to the point where termination of tenancy was considered as a solution.

4. Participants' Responses

4.1 Nature of Neighbourhood Disputes

Participants were asked whether they had ever had serious problems with a neighbour during their time living in social housing. If so, they were asked to explain what kinds of problems they had experienced.

The most common problem reported by the participants was verbal abuse, threats or harassment. The next most common issue was physical abuse of the participant, or the participant's family or friends. Theft, vandalism and property damage was nearly as common as physical abuse. Stalking behaviour and noise complaints were less common. The table below shows how frequently participants reported each problem type.

	Type of Problem	Number of times problem was reported	% of respondents who had experienced that problem
1	Verbal Abuse and Threats	13	87%
2	Physical Abuse	7	54%
3	Vandalism, Theft or Property Damage	6	46%
4	Stalking	4	31%
5	Noise Complaints	1	8%

Many of the behaviours of high needs tenants reported by participants were serious enough to attract criminal liability or give rise to tortious actions. The experiences related by many of the participants were analogous to the facts in the *Ingram* case.¹⁸ It is possible that if the social housing landlord was aware of the problematic behaviour but had taken no steps to mitigate the issues, the landlord could be held liable for permitting breaches of the participants' right to quiet enjoyment of their premises.

4.1.1 Who is affected by Neighbourhood Disputes?

The participants who appeared to be most adversely affected by neighbourhood disputes were individuals who were living alone and lacked the support of family, friends or colleagues. Larger households tended to be more resilient.

The high needs tenants were often individuals who were not receiving adequate support for their mental illness or substance abuse problems. They, too, tended to live alone. They had often experienced homelessness and struggled to adjust to communal living.

¹⁸ *Ingram v Department of Housing (Tenancy)* [2002] NSWCTTT 84 (8 May 2002).

4.2 Comments on Housing Providers

Participants were asked a series of questions about their interactions with their social housing landlords. These included:

- Whether they had reported the problems they were experiencing with their neighbour to their social housing landlord;
- How they made their report;
- What the social housing landlord's response was to their complaints;
- What suggestions they had for their social housing landlords that might assist them to respond more effectively to neighbourhood disputes in the future.

4.2.1 Participants' Recommendations for Social Housing Landlords

The table below shows the participants' most common suggestions for their social housing landlords. Each suggestion is discussed in further detail below.

Participants' Suggestions	# of Responses	% of Participants
A Proactive responses to complaints ("Not just citing the Privacy Act")	8	57%
B Improved Communication & Customer Service	6	43%
C More thoughtful allocations for tenants with high needs	5	36%
D Better Mental Health Support	4	29%
E More options for face-to-face contact with the social housing landlord	4	29%
F Better collaboration between social housing landlords and police	3	21%
G Not outsourcing Housing stock unless the new landlord has the resources and expertise to uphold tenants' rights	1	7%
H No suggestions	4	29%

4.2.2 Inaction & Frustration

Every participant surveyed expressed some level of frustration at the inaction of their social housing landlord. In some cases the landlord explained that they were unable to act because the dispute was a police matter not a housing matter or that one party was not a tenant. In other cases the participants simply had no response to their complaints. The box below contains quotes from participants which capture this frustration:

'They just say they're looking into it, but they never do anything.'
'They always told us they couldn't talk about it because it was a privacy matter. They'd never tell us what was happening.'

One participant indicated that he felt as though his social housing landlord only responded to his complaints when it was in their interests to do so. He reported that the high needs tenant had fallen into rent arrears, and the social housing landlord wanted to evict him. At this point the participant's complaints were carefully recorded. Before this, he felt that his complaints had been ignored.

4.2.3 Communication and Customer Service

In some cases, participants complained about their landlord's inaction, but then referred to NCAT proceedings against the high needs tenant instigated by the landlord. It is probable that in these cases, the landlord had in fact taken steps to address the problem, but their actions had not been communicated effectively to the tenants involved. This lack of communication means that tenants feel as though they are being ignored even when landlords do in fact respond to their complaints.

The vast majority of participants reported that communication from their social housing landlord was 'very poor.'

'We've had no communication at all. They just keep talking about privacy and confidentiality and don't tell you anything. It was all about his rights, and we didn't feel like our rights were taken into account. Our rights were just ignored.'

Telephone contact

Most social housing landlords can be contacted by telephone for general enquiries, maintenance requests and complaints.

Housing NSW has a 'Housing Contact Centre' which can be reached by calling 1300 HOUSING. In their advertising material they report that this centre receives approximately 800,000 calls per year or '3,500 calls daily'.¹⁹

¹⁹ <http://www.housing.nsw.gov.au/NR/rdonlyres/9CBCEB85-C3F2-41FC-B521-CDDA210D8F3F/0/HousingContactCentre.pdf>

The Housing NSW website lists direct phone numbers for the Newcastle office but calls to these numbers are diverted back to the 'Housing Contact Centre'. A number of participants expressed frustration with this process.

'If you call to make a complaint, you get put through to a call centre God-knows-where.'

'When you call Housing, you get to this central call centre somewhere and whatever you tell them, they'll just say "thank you I'll send an email off to Newcastle." And that's the last you hear about it. I feel like they just send those emails off into outer space.'

Visiting local offices in person

Housing NSW has a number of local and divisional offices across the state. Aboriginal and Community Housing landlords also have offices that tenants can visit to raise their concerns.

Participants in Community Housing tended to complain that the offices were too far away from their accommodation. Housing NSW tenants generally found that the customer service that they received in their local offices was poor. The face-to-face contact did however seem to be preferred over a call to the Housing Contact Centre.

'I never got a particularly warm reception from the people working in the Housing office.'

While there was a general consensus that customer service was poor, a handful of participants could single out one staff member who they had had positive interactions with. Participants expressed a great deal of gratitude whenever Housing staff made a special effort to communicate with them about the steps were being taken to resolve their issues or about the reasons for any delays.

'She's been absolutely great. She is the only person from Housing who has ever really kept us up to speed with anything.'

Presence within the social housing complex

One participant spoke about the fact that during a previous social housing tenancy, there had been a "Housing Coordinator" assigned to her block. The Housing Coordinator was employed by the social housing landlord, and their role was to visit the complex regularly and speak with the residents about any issues that had arisen.

Once this participant began to have problems with a neighbour, she called her social housing landlord and asked to be put in contact with the Housing Coordinator for her block. She was told that the last person in the role had recently left the job and that the position was vacant. The participant learned that four different people had moved through the role since the complex opened. None of the residents in her block had had any contact with any of these four employees.

When asked how Housing NSW could improve their management of neighbourhood disputes, the participant recommended that this staffing issue be addressed. She strongly advocated that each social housing complex should have ready access to a Housing Coordinator.

'Even if they just came around once every six months and had a meeting out under the pergola to check in with us all, that would make a massive difference. We'd feel like someone was actually listening to us.'

Another participant echoed this sentiment and argued that social housing landlords need to have some process in place so that their employees can visit tenants at their place of residence, instead of forcing everyone to use the call centre or other less personal means of communication.

4.2.4 Comments on Allocations

Many participants expressed the view that the high needs tenants should not have been allocated to their particular block, because they did not 'fit' well with the existing community.

Social housing is a scarce resource, and often decisions about where a particular tenant will be allocated is based on what housing is available 'rather than what housing is needed.'²⁰ The Tenant's Union of NSW has warned that 'all tenants bear the brunt' of 'ill-considered and inappropriate allocations.'²¹ This is clearly demonstrated in the case study in Part 5 of this report.

'You can't just dump someone in a place without any help and expect all their problems to disappear. I hope that they take a bit of extra time when they put a new person in the apartment to make sure that they are a good fit for the community that we have here.'

4.2.5 Collaboration with Police

'They just pass the buck to the police, who pass it back to Housing'

A number of participants called for greater collaboration between the police and their social housing landlord. One participant stated that once a neighbourhood dispute escalated to the point of physical assault, for example, the social housing landlord would say that it was the police's role to deal with criminal matters and not their role as a landlord. He felt that these kinds of issues were not adequately followed up by the housing provider.

4.3 Comments on Police

Participants reported mixed opinions on police involvement in neighbourhood disputes. They complained about delays in responding to incidents as well as delays in processing AVOs or laying criminal charges.

Participants displayed gratitude whenever police officers took the time to speak with them at their places of residence or otherwise kept them informed of the steps that the police were taking in relation to a neighbourhood dispute.

A number of participants said that they had stopped reporting minor incidents to the police due to a fear that the police would stop taking their complaints seriously and be slower to respond in future.

²⁰ Chris Martin, Peter Mott and Zane Landles, 'Marginalising Public Housing Tenants from the 'Good Neighbour Policy' to 'Renewable Tenancies' A paper presented at the Housing, Crime and Stronger Communities Conference (Melbourne, 6-7 May 2002), 6.

²¹ Ibid.

One participant recommended that all police officers have training in communicating effectively with people with mental illness. She explained that one of the tenants in her block suffers from anxiety. When the police came to speak to that tenant about the neighbourhood dispute, she would become anxious and found it difficult to tell the police what had happened. The participant feared that ‘the police just wrote her off as a nutter’ and stopped responding when she made fresh complaints.

‘On the whole, the police have been good, but sometimes when you’re making complaints all the time, the police start treating you as the perpetrator, not the victim.’

4.4 Apprehended Personal Violence Orders

All participants were asked whether they had ever attempted to obtain APVO to regulate the behaviour of the high needs tenant. One third of participants never sought an order. Their reasons for deciding against seeking an APVO fell into three main categories:

- Fear that making an APVO application would make things worse
- A desire to avoid going through the court process
- A belief that an APVO would be ineffective, especially in situations where the neighbour in question only caused problems when they were under the influence of drugs or alcohol and it was unlikely that they would even consider the order when they were in that state

The remaining two thirds of participants reported that they had either made a private application or the police had made an application on their behalf.

4.4.1 Outcomes of APVO Applications

The table below shows the outcomes of these APVO applications in greater detail.

Outcome	Percentage
Final APVO granted	40%
Matter resolved through mediation	20%
Court Proceedings are ongoing	20%
Application rejected	20%

4.4.2 Effectiveness of APVOs

When participants reported that either a final APVO had been granted in their favour, or that a final agreement had been reached through mediation, they were asked whether they felt that the APVO or agreement had been effective in protecting themselves or their families. Only thirty percent of

those participants reported that the APVO or agreement was effective in resolving the issues they had with their neighbour.

One respondent reported that the APVO was effective while it was in place, but on the day that it expired, the defendant in her APVO application knocked on her door, asked 'do you know what day it is today?' and then returned to the threatening and abusive behaviour that had led her to take out the APVO in the first place.

Seventy percent of respondents who had been granted an APVO, or reached a negotiated agreement, were not satisfied with the outcome. They did not feel that the APVO or agreement had been effective in protecting themselves or their families from the other tenant's difficult behaviour. One participant reported that the APVO simply 'made [him] angry and made things worse'.

4.4.3 Comments on the Court Process

'The court process was very stressful; I couldn't have done it on my own.'

The survey did not directly ask participants about their experience in the courts but participants did provide comments on the court process.

Participants commonly stated that:

- Gathering evidence was difficult as the person harassing them would generally act when they were alone and there were no other tenants around to witness their behaviour
- Delays were common and matters would not be finalised for months
- They did not feel confident facing the defendant in the court room
- They did not completely understand the process and found it difficult to get help to understand the process

4.4.4 Comments on Mediation

Twenty percent of participants who had sought the protection of an APVO had their matter resolved at mediation. The majority of those participants commented positively on the mediation process itself, although they did comment that the other tenant rarely abided by the agreement in the long term.

One participant noted that the other tenant had been very defensive in court, but was more open and honest during the mediation.

Another participant had had ongoing problems with a neighbour who had a moderate intellectual disability. The participant applied for an APVO against this neighbour, but felt that she did not completely understand the court process. When the participant's matter was referred to mediation,

he found that he could communicate with his neighbour much more effectively because she had support people present and the discussion could move more slowly than it would have done in court.

4.5 Opinions on Eviction

'They should probably be evicted... but where would they go?'

Each participant was asked whether they thought that tenants who cause problems for their neighbours should be evicted from social housing. Thirteen participants responded to this question. Less than one third of clients felt that these tenants should be evicted. The vast majority of participants displayed a certain level of empathy for these tenants.

The participants considered that it would be better to address the root causes of the tenants' problematic behaviour, through support and appropriate allocations, than to punish a vulnerable social housing tenant by evicting them and pushing them into homelessness.

The table below shows the most common responses to this question, and the number of times that each sentiment was expressed by the participants.

Answer	# of Responses	% of Participants
A Yes they should be evicted.	4	31%
B Eviction might be acceptable as a last resort, after a number of warnings.	4	31%
C Relocating high needs tenants or making better allocations in the first place would be preferable.	5	38%
D There needs to be more supported accommodation available to people with high needs.	5	38%
E Recognition that the high needs tenant might not be in control of their behaviour due to substance abuse or mental illness.	4	31%
F Recognition of the adverse impact of eviction on the high needs tenant.	5	38%

5. Conclusions & Recommendations

5.1 Does the current system work?

The first two aims of this study were to determine what methods Housing NSW currently uses to deal with disputes between tenants and assess the effectiveness of those methods.

The participants in the present survey have indicated that the current complaints procedure is inadequate. There does not appear to be a transparent process where tenants are kept up to date about the progress of their complaints.

Housing NSW relies on the Good Neighbour Policy as a means of managing disputes between its tenants. If things escalate and the police become involved, Housing NSW steps out of the process altogether, and tenants are left to navigate the court system and an increasingly stressful situation on their own.

Overwhelmingly, tenants expressed that the current system is not working, either in protecting their right to quiet enjoyment or in supporting and resolving issues regarding high needs tenants, who are themselves given little support.

5.2 How can the system be improved?

5.2.1 Improved Communication with Tenants

Survey participants commonly expressed frustration at the poor handling of their complaints by the social housing landlord. Many participants identified a lack of communication as the core of this problem. The participants' suggestions for improving communication were to improve the complaints system and use 'Housing Coordinators'.

There is not a clear complaints policy for Housing NSW tenants, whereas there is a fact sheet available to tenants of community housing providers. A clear and simple complaints policy for Housing NSW tenants should be available to them online and in print. Regardless of whether or not a policy exists, the results of this survey suggest that what actually happens is that there is poor communication between the landlord and the tenant and little consistency in the handling of complaints.

Even though it appears that the policy of Housing NSW is to have a designated Client Services Officer dealing with a complaint, this does not play out in reality. Participants complained about not being able to speak to the same staff member and consistent lack of information about the progress of their complaint.

Housing Coordinators

One participant suggested that some of the communication issues she was experiencing could be resolved by reinstating a Housing Coordinator. A Housing Coordinator is an employee of the social housing landlord who is required to make regular visits to their allocated social housing complex to keep in touch with the issues of the tenants. If one person remained in this position for an extended period of time, a tenant who had lodged a complaint would have one person who understood their situation, rather than dealing with a series of different staff through a central call centre.

Real gratitude was expressed by participants when they had experienced continuity in staffing and good customer service.

'Even if they just came around once every 6 months, and we all sat down for a meeting under the pergola, and checked in with us all, it would make a massive difference. We'd feel like someone was actually listening to us.'

Complaints Procedure

Improving the complaints system is central to addressing the frustration expressed by the participants. The survey results give rise to the following recommendations that would assist Housing NSW to provide its tenants with a more thorough and transparent complaints procedure:

- Complaints about a disruptive tenant should be put in written form by Housing NSW and recorded on a complaints database which would allow complaints to be tracked. Tenants should be informed that their complaints should be lodged in the form of a "witness incident report". Even though this seems to be the policy of Housing NSW it is not regularly communicated to tenants.
- Substantiated complaints should be followed up by a visit to the affected tenants by the social housing landlord, ideally by a dedicated 'housing coordinator'
- The tenant who is the subject of a substantiated complaint should be issued with written warnings when there has been a breach of the tenancy agreement. Ideally they would also be visited by a housing coordinator who could identify some of the underlying causes of their disruptive behaviour.
- Mediation should be offered to the tenants at an early stage in a bid to avoid escalation of the problem.
- If the matter becomes the subject of an APVO application, the social housing landlord should remain in contact with the tenants, rather than stepping aside and leaving tenants to work through the court process alone.

5. 2. 2 Extra support for Tenants with High Needs

'What we need is more housing complexes where there are caseworkers on site, helping people regularly.'

There is a demonstrated need amongst people living with mental illness for stable, independent housing.²²

Housing NSW maintains a database of high needs tenants who have been identified as being particularly resource intensive and who may have previously been the subject of NCAT proceedings as a result of their disruptive behaviour. This database could be used by Housing NSW employees who have been tasked with investigating complaints. It could provide them with a more detailed history of the matter and some insight into how to best address the disruptive behaviour.

5.2.3 Housing Allocations

The survey results suggest that the majority of protracted neighbourhood disputes flow from inappropriate housing allocations.

The HCLC recognises that social housing stock is scarce and that individuals with high needs are often the people most in need of stable housing. However, the social housing landlord should still undertake a realistic assessment of the capacity of a given social housing community to support a new tenant with high needs. If support for the new tenant cannot come from other residents, then an alternate support network needs to be set up to help the new tenant maintain their tenancy.

5.2.4 Collaboration with NSW Police

The survey participants reported that any police intervention in neighbourhood disputes meant that the social housing landlord would discontinue their involvement in the matter. Participants expressed the fear that if they complained too frequently to the police, future complaints would be ignored or not taken seriously. They also reported that applying for an APVO without police support created more stress for tenants who were already in stressful situations.

A partial solution to this would be the early collaboration between the tenants in dispute, the landlord and the police to promote mediation as a way of resolving disputes between tenants. Given that tenants who have contacted the police are already in stressful situations, or are already feeling threatened, a support person provided by the social housing landlord to assist them with mediation would be beneficial. It would mean these matters have a strong chance of being resolved at a much earlier stage.

²² Browne & Hemsley, 'Consumer Participation in Housing', (2010) *Australian Psychiatry* 582

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