

**Submission
No 40**

**OPTIONS TO IMPROVE ACCESS TO EXISTING AND ALTERNATE
ACCOMMODATION TO ADDRESS THE SOCIAL HOUSING SHORTAGE**

Organisation: Kingsford Legal Centre, UNSW Australia

Date Received: 13 August 2021

13 August 2021

Kingsford Legal Centre

Submission to the inquiry into options to improve access to existing and alternate accommodation to address the social housing shortage

We welcome the opportunity to make a submission to the inquiry into options to improve access to existing and alternate accommodation to address the social housing shortage. We consent to this submission being published. For all case studies in this submission, names and identifying information have been changed to protect confidentiality.

Summary of recommendations

We make the following recommendations:

1. Recommendation 1: The NSW Government must make a significant and sustained investment in permanent social housing, and not rely on 'meanwhile use' to address the social housing crisis.
2. Recommendation 2: The NSW Government must make a significant and sustained investment in social housing appropriate for people with disability, people with chronic illness and older people;
3. Recommendation 3: The NSW Government must dedicate significantly increased funding to ensure that requests for repairs, alterations and transfers in all forms of social housing can be promptly addressed;
4. Recommendation 4: There should be greater coordination between housing services, health services and disability support services at all levels of government;
5. Recommendation 5: The NSW Government should adopt the minimum accessibility standards in the *National Construction Code 2022*;
6. Recommendation 6: The NSW Government must make a long-term investment in crisis accommodation, with a focus on helping people to move from crisis accommodation to secure housing (such as social housing);
7. Recommendation 7: The NSW Government must make sure that crisis accommodation is fit-for purpose: in a reasonable state of repair, safe, suitable for use as crisis accommodation and accessible to people with disability;
8. Recommendation 8: The NSW Government must ensure that there is enough affordable housing for key workers and people on lower incomes;
9. Recommendation 9: Housing should only be considered 'affordable' where rent is no more than 30% of a household's income;
10. Recommendation 10: The NSW Government must amend sections 84 and 85 of the *Residential Tenancies Act* to end 'no grounds' evictions; and
11. Recommendation 11: The NSW Government should require that social housing providers use eviction as a last resort and should not evict tenants into homelessness.

About Kingsford Legal Centre and our Health Justice Partnership

Kingsford Legal Centre (KLC) is a community legal centre, providing free legal advice, casework and community legal education to people in south-east Sydney. We run a specialist Health Justice Partnership (HJP) with the Prince of Wales Hospital (POWH) and Eastern Suburbs Mental Health Service (ESMHS). Health Justice Partnerships are collaborations between legal and health services that support people who are both more likely to experience chronic health conditions and have unmet legal need. As part of our HJP, our lawyers regularly attend hospital to see patients, follow up with them after they are discharged and work closely with health professionals, including social workers.

Our work through the HJP over the past 2 years highlights a clear link between people with chronic health conditions and poor housing - 71% of our HJP clients have a disability, including mental illness, and 16% are homeless or at risk of homelessness. Housing is one of the most common legal problems that our HJP clients face.

We also have a long history over forty years helping people with housing matters through our generalist practice. In the 2020–21 financial year, we gave advice in 300 housing matters and provided intensive assistance with 97 housing matters. 15% of our clients lived in social housing.

There's not just a housing shortage – it's a crisis

The Terms of Reference acknowledge that there is a social housing shortage in NSW. This shortage is extreme, chronic and harmful to both the health and human rights of people living in NSW. There has been little increase in the state's social housing since the late 1990s, despite a 27% growth in the state's population.¹ In 2020, there were more than 50,000 households on the waitlist for government-owned social housing. About 1 in 7 people on the priority waitlist are over 65 with a severe medical condition or disability.² This is not just a shortage in social housing – it is a housing crisis.

The extreme shortage of social housing contributes to a large and growing problem with homelessness in NSW. There was a 37% increase in the number of people experiencing homelessness from 2011 to 2016.³ About 37,720 people in NSW were homeless in 2018, giving NSW the second-highest rate of homelessness in Australia.⁴ We see this crisis play out to devastating effect in our local community. The wait time in Sydney's eastern suburbs is 5–10 years for social housing with 2 bedrooms or less. It is 10+ years for social housing with 3 bedrooms or more.⁵ For people in our community, these wait times mean long periods of homelessness – sleeping on other people's couches, garages or in insecure accommodation. They also mean years spent in unsafe accommodation – in dangerously poor states of repair, experiencing domestic violence or in circumstances that are otherwise damaging to people's health. We often see clients whose existing health problems have been worsened by poor or inappropriate housing, as well as clients who have developed new health problems as a result. There are significant long-term impacts on children and young people who experience homelessness during critical school years and we see this play out for many of our clients.

¹ NSW Department of Planning, Industry and Environment, 'A Housing Strategy for NSW' (Discussion Paper, May 2020) 62 <<https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Policy-and-legislation/Housing/A-Housing-Strategy-for-NSW-Discussion-Paper-2020-05-29.pdf>>.

² Ibid.

³ NSW Department of Planning, Industry and Environment, 'A Housing Strategy for NSW' (Discussion Paper, May 2020) 63 <<https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Policy-and-legislation/Housing/A-Housing-Strategy-for-NSW-Discussion-Paper-2020-05-29.pdf>>.

⁴ Law and Justice Foundation of New South Wales, 'Homelessness in Australia: Key Facts' (Factsheet, November 2018) <[http://www.lawfoundation.net.au/ljf/site/templates/resources/\\$file/Homelessness_AUS.pdf](http://www.lawfoundation.net.au/ljf/site/templates/resources/$file/Homelessness_AUS.pdf)>.

⁵ NSW Department of Communities and Justice, 'Expected Waiting Times' (30 July 2021) <<https://www.facs.nsw.gov.au/housing/help/applying-assistance/expected-waiting-times>>.

We are especially concerned by the impact of the social housing crisis on vulnerable people, including people with disability, people with chronic illness and older people. There is a shortage of social housing that is suitable for people with disability, and our clients experience long delays with transfer and alteration requests, and repairs issues. We often see vulnerable people who have no choice but to remain in completely unsuitable housing, at great harm to themselves and their families.

Latisha's story

Latisha is an elderly woman who is currently living in public housing. Latisha, who suffers from chronic and persistent mental illness, came to KLC's HJP for assistance with mould in her apartment. The level of mould in Latisha's apartment was deeply concerning. Latisha was unable to sleep in her bedroom due to the mould, and instead slept on the couch in her living room. She also began to develop breathing distress at home and opted to spend as much time outside her home as possible, even in winter. She raised the issue with her landlord many times, but she was told that mould was her responsibility as the tenant.

KLC's ability to help the client was only possible with the help of Latisha's mental health caseworker. The caseworker was able to obtain the medical reports that demonstrated the mould was affecting Latisha's health and organise the occupational therapist report that indicated that the structural defects in Latisha's apartment were contributing to the mould build-up. As a result of these two key pieces of evidence her social housing provider has since agreed to KLC's formal request to clean the mould and re-paint Latisha's apartment.

Michael's story

Michael was referred to KLC by a nurse. He is a single parent of 3 young children who lives in public housing in a 2-bedroom home. One of Michael's children requires additional learning and behavioural support because of a medical condition. This support includes providing the child with their own place to learn and regulate their emotions. To provide this support, Michael has given his child his own bedroom. Michael shares the remaining bedroom with his two other children. Michael's neighbours have made complaints about the children making noise.

Michael was approved several years ago for a priority transfer to housing that would provide more space for him and his children. Despite this 'priority' status, the transfer still has not taken place. Housing's ongoing inability to provide suitable housing to Michael is negatively impacting his mental health and his family's quality of life.

People have a human right to housing.⁶ It is the government's responsibility to make sure this right is fulfilled.⁷ The government's failure to address the social housing crisis has flow-on effects across a broad range of areas. These include physical health, mental health, financial stability, education, relationships and social inclusion. It also increases state government spending on health, as preventable problems worsen and require higher levels of care. As a result of the sheer lack of housing options we have observed the system become more complicated, harder to use and less accessible to

⁶ *International Covenant on Economic, Social and Cultural Rights*, art 11.

⁷ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing*, 6th sess (1991) [12].

people in housing crisis. Our lawyers have to work intensively over many hours to secure accommodation for at risk and homeless people. It should not require lawyers to secure housing assistance in NSW for people who are homeless or in unsafe housing.

As a result of the affordable housing crisis, we see many people in private rental accommodation they can barely afford, which is often of poor quality. Many of our clients in this situation struggle to meet the rent which takes most of their income. COVID-19 has placed these people into highly precarious housing situations particularly for people who relied on casual employment to maintain the rent. There has been an increase in renters forced out of their homes by evictions and financial difficulty.⁸ We have seen many clients with little to no income, who have thousands of dollars in rental debt.

The NSW Government did introduce protections against evictions on the basis of rental arrears incurred due to the COVID-19 pandemic.⁹ However, these protections have been limited and government support for renters during the pandemic has been inadequate. The lack of social housing has contributed to this situation. It will create further issues as governments withdraw pandemic support.

Options to better support 'meanwhile use' (temporary supportive accommodation)

'Meanwhile use' allows vacant buildings to be used temporarily for a different purpose.¹⁰ We note that the Committee is interested in options for repurposing vacant buildings 'to offer short-term social housing to people who require temporary accommodation'.¹¹ We do not think this is an answer to the current crisis. Social housing should provide the long-term stability and health benefits of secure, affordable housing. People living in temporary accommodation are usually considered to be homeless, due to the lack of 'security, stability, privacy and safety' that a home provides.¹²

While 'meanwhile use' may have some value when the overall housing system is in crisis, it is no substitute for a massive government investment in permanent social housing. Only permanent social housing can provide security for people who cannot afford to rent or buy on the private market.

We are concerned that the 'meanwhile use' of vacant buildings without investment in social housing will mean that people leave 'meanwhile use' properties without long-term housing options. 'Meanwhile use' can only at best be considered a band-aid solution, and we need to recognise that cycles of temporary accommodation without secure housing at the end can be very damaging to people who experience it.

Max's story

⁸ Tenants' Union of New South Wales, *Supporting Renters Through the Pandemic: NSW Renters' Experience in the Private Rental Market during the COVID-19 Health Crisis* (Report, September 2020) 11–14 <https://files.tenants.org.au/policy/202009_TUNSW_Supporting_renters_through_pandemic.pdf>.

⁹ NSW Fair Trading, 'Residential Tenancy Support Package' (2 August 2021) <<https://www.fairtrading.nsw.gov.au/resource-library/publications/coronavirus-covid-19/property/moratorium>>.

¹⁰ Carly Smith, "'Meanwhile' Building Use: Another Way to Manage Properties Left Vacant by the COVID-19 Crisis", *The Conversation* (25 August 2020) <<https://theconversation.com/meanwhile-building-use-another-way-to-manage-properties-left-vacant-by-the-covid-19-crisis-144056>>.

¹¹ NSW Legislative Assembly Committee on Community Services, 'Using Empty Properties to Offer Short-Term Housing for Those in Need' (Media Release, 28 June 2021) <<https://www.parliament.nsw.gov.au/ladocs/other/15710/Media%20release%20-%20Using%20empty%20properties%20to%20offer%20short-term%20housing%20for%20those%20in%20need%20-%20Community%20Services%20Committee.pdf>>.

¹² See NSW Department of Planning, Industry and Environment, 'A Housing Strategy for NSW' (Discussion Paper, May 2020) 81 <<https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Policy-and-legislation/Housing/A-Housing-Strategy-for-NSW-Discussion-Paper-2020-05-29.pdf>>.

Max worked as a tradesperson and lived in private rent for most of his adult life. He had to stop working in his forties after a serious back injury and the exacerbation of his mental illness. He eventually applied for Disability Support Pension and was given a studio apartment by a social housing provider. Unfortunately, the apartment had continuing repairs problems and Max did not have sufficient mental health support, so he abandoned his social housing and spent over 18 months living in his car or camping in parks.

Max was referred to KLC after he accumulated thousands of dollars of parking and car registration fines that he could not afford to pay, and that were directly linked to his homelessness. After dealing with his fines, we advocated for Max to be re-approved for social housing and placed on the priority list. It took us over 9 months to have Max approved and housed, and he lived in his car for most of that time as organising emergency accommodation of maximum 3-night runs caused him even more anxiety and distress. Temporary accommodation was not a solution in Max's situation. Only long-term, secure housing was going to give him the stability he needed to address his health concerns, reduce his stress and access the health and social supports he needed. Max is still living in his new social housing home with appropriate support

We support the recommendations of NCOSS, Shelter NSW, Community Housing Industry Association NSW, Homelessness NSW and the Tenants Union NSW that the NSW Government must urgently invest in affordable housing and increase the maintenance of current housing.¹³ During the COVID-19 pandemic, the NSW Government has recognised the need to provide economic stimulus to protect jobs.¹⁴ A massive investment in social housing will not only help those who get the benefit of a home – it will create thousands of jobs and help the economic recovery from the COVID-19 pandemic.

Recommendation 1: The NSW Government must make a significant and sustained investment in permanent social housing, and not rely on 'meanwhile use' to address the social housing crisis.

Options to improve access to existing accommodation to provide community housing

Access to affordable accommodation is especially difficult for vulnerable people. Community housing providers should be model landlords. They should meet high standards and comply with both the spirit and letter of the law. Disappointingly, in many cases that we see, community housing providers often fail to comply with the law, at great harm to the health and safety of people with disability. The following case study highlights the challenges that people with disability can face in accessing community housing.

Roger's story

¹³ Equity Economics and Development Partners Pty Ltd (for the NSW Council of Social Services et al), *Supporting Economic Recovery in NSW: Investment in Social and Affordable Housing is Critical to Supporting Jobs Today and Families into the Future* (Report, 15 May 2020) 10–15 <https://www.ncoss.org.au/wp-content/uploads/2020/05/Equity-Economics-Supporting-Economic-Recovery-in-NSW_Final_220620.pdf>.

¹⁴ NSW Government, 'Major New COVID-19 Support Package to Help Tens of Thousands of Businesses across NSW' (Media Release, 29 June 2021) <<https://www.treasury.nsw.gov.au/sites/default/files/2021-06/Gladys%20Berejiklian%20John%20Barilaro%20Dominic%20Perrottet%20med%20rel%20-%20Major%20new%20COVID-19%20support%20package%20to%20help%20thousands%20of%20businesses%20across%20NSW.pdf>>.

Roger is a pensioner who has numerous physical and mental disabilities. Roger also has an assistance animal who assists him in everyday living and plays a hugely important support role in Roger's life. Roger has lived in community housing for many years. His current premises have terrible damp and mould issues, which have taken months to be rectified. Roger's home is also not suitable for his needs because of his disabilities. Roger came to KLC for help as he wanted to be transferred to a more suitable property in the same area, which was important as his medical and social supports are all local. KLC assisted Roger to make a disability discrimination complaint against the social housing provider. Despite trying to negotiate with the provider, Roger was unable to reach an agreement as the social housing provider did not have a suitable and available home to provide to him. Roger remains in his unsuitable accommodation for the foreseeable future, while his disabilities become exacerbated requiring more intensive intervention through health services.

The lack of coordination between social housing providers, health services and disability support services is also a major issue. Despite the significant barriers that people with disability face when trying to access housing, the National Disability Insurance Scheme (NDIS) does not provide housing. In our experience the National Disability Insurance Agency (NDIA) and Housing do not work together in a co-ordinated way to ensure that people with an NDIS plan receive appropriate housing. For example, a social housing tenant with physical disabilities will have to make their own application for a transfer or alterations, and pay from their own limited NDIS funding for an occupational therapist report. There should be greater coordination between housing services, health services and disability support services at all levels of government to support people with disability to maintain suitable housing.

Fatima's story

Fatima is a long-term public housing resident whose only income is the disability support pension. Fatima has multiple physical disabilities and complex housing needs. For many years, she has been trying to obtain modifications so that her home is safe and suitable for her needs. Over the years, Fatima has been required to provide multiple occupational therapist reports to support her requests for modifications. While some modifications have been made to Fatima's home, these have not been sufficient to meet her needs and she is still living in unsafe housing. Due to concerns about the safety of some of those modifications, Fatima obtained a report from a specialist consultant to assess the home modifications against various disability and building standards. This report was expensive and was paid for by Fatima out of her own NDIS package, meaning that her ability to use her NDIS package for her own care has been reduced. The report showed that the property fell short of relevant standards in a number of ways, and Fatima is still trying to have these issues fixed so that she can be safe in her home.

The NSW Government should improve access to housing by adopting the minimum accessibility standards in the *National Construction Code 2022*. A majority of Australian states and territories have agreed to adopt these standards.¹⁵

The minimum accessibility standards will make new homes more accessible, while also ensuring that disability adjustments can be made to new homes at lesser cost.¹⁶ This

¹⁵ Australian Department of Industry, Science, Energy and Resources, 'Building Ministers' Meeting: Communiqué April 2021' (Media Release, 30 April 2021) <<https://www.industry.gov.au/news/building-ministers-meeting-communique-april-2021>>.

¹⁶ Ibid.

will play an important role in providing access to housing for people with disability, people with chronic illness and older people.

Bethany's story

Bethany lives in public housing and has a physical disability that requires a wheelchair. Bethany's property had not been built in an accessible way. As a result, she was not able to enter or leave her home properly or move safely around her property. She was unable to lock her front door securely, and it would not always fully open to allow her to enter and leave her home without sometimes damaging her wheelchair or injuring herself. Bethany had asked Housing to make alterations to her property, but Housing refused.

KLC helped Bethany to make a disability discrimination complaint. It was only as a result of this complaint that Housing agreed to make alterations, such as installing an electronic push button door so Bethany could safely enter and leave her home. Without our help, it is likely that Bethany would still be unsafe in her home.

Recommendation 2: The NSW Government must make a significant and sustained investment in social housing appropriate for people with disability, people with chronic illness and older people.

Recommendation 3: The NSW Government must dedicate significantly increased funding to ensure that requests for repairs, alterations and transfers in all forms of social housing can be promptly addressed.

Recommendation 4: There should be greater coordination between housing services, health services and disability support services at all levels of government.

Recommendation 5: The NSW Government should adopt the minimum accessibility standards in the *National Construction Code 2022*.

Options for crisis, key-worker and other short term accommodation models

There is a desperate shortage of crisis accommodation in NSW. In 2019–20, specialist homelessness services turned away an average of 260 requests each day – most commonly, because there was no accommodation available.¹⁷ We are especially concerned about the impact of this on people experiencing domestic violence, especially women and children, who may be forced to remain in an unsafe situation by the shortage of crisis accommodation.

Being in crisis accommodation is traumatic and is designed to be a temporary measure until a form of secure housing can be found. Sadly, many people now just rotate through crisis accommodation without an offer of secure housing, and some people choose not to use crisis accommodation because of the debilitating impact of this on them. Crisis accommodation no longer effectively works as there is no affordable housing that people can transition into.

¹⁷ Australian Institute of Health and Welfare, 'Specialist Homelessness Services Annual Report: Unmet Demand for Specialist Homelessness Services' (11 December 2020) <<https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-annual-report/contents/unmet-demand-for-specialist-homelessness-services>>.

This type of accommodation must be provided in conjunction with homelessness services, such as social worker support, drug and alcohol services and access to legal services. Without wrap around services this accommodation will not help people transition out of homelessness.

Marissa's story

Marissa has a physical disability that requires a wheelchair and lives in social housing with an abusive partner. The layout of Marissa's housing prevents her from moving freely around her home with her wheelchair. Basic personal care, like cooking or using the bathroom, is hazardous due to the inappropriate layout of Marissa's housing.

Marissa lives with a partner who is physically, verbally and emotionally abusive and has acted in ways that threaten her life on more than one occasion. Marissa is unsafe in her residence both because of her partner and because the space prevents her from moving freely in her wheelchair. She is too fearful to ask police to remove her partner, as she fears he will react violently and she will be vulnerable at home on her own.

Marissa has asked for a transfer to disability-specific accommodation and been told that the waitlist is at least 12 months long. She cannot escape to a refuge because refuges do not provide adequate access for her wheelchair. As a result, she is forced to remain at her current residence. Her life and safety remain very much at risk.

The Terms of Reference for this inquiry include key worker accommodation together with crisis accommodation and other short term accommodation models. Key worker accommodation should not be short-term.

The term 'key worker' generally refers to 'employees in services that are essential to a city's functioning but who earn low to moderate incomes'.¹⁸ The COVID-19 pandemic has highlighted the vital role that key workers play in our society. KLC's own local catchment area includes thousands of key workers who work at major hospitals, schools, universities, major airports and other transport hubs.

It is deeply concerning that 20% of key workers in Sydney experience housing stress,¹⁹ meaning that they spend more than 30% of their household income on rent or mortgage payments.²⁰ The rate of housing stress for key workers is even higher in the inner suburbs of Sydney.²¹

Nationally, there is a shortage of 305,000 affordable and available homes for people in the lowest income group.²² While developers sometimes claim to provide 'affordable

¹⁸ Catherine Gilbert, Zahra Nasreen and Nicole Gurrán, *Housing Key Workers: Scoping Challenges, Aspirations and Policy Responses for Australian Citizens* (Final Report No 355, May 2021) 1 <https://www.ahuri.edu.au/data/assets/pdf_file/0026/67607/AHURI-Final-Report-355-Housing-key-workers-scoping-challenges-aspirations-and-policy-responses.pdf>.

¹⁹ Ibid.

²⁰ Ibid 16.

²¹ Ibid 1.

²² Kath Hulse et al, *The Supply of Affordable Private Rental Housing in Australian Cities: Short-Term and Longer-Term Changes* (Final Report No 323, December 2019) 1 <https://www.ahuri.edu.au/data/assets/pdf_file/0024/53619/AHURI-Final-Report-323-The-supply-of-affordable-private-rental-housing-in-Australian-cities-short-term-and-longer-term-changes.pdf>.

housing', there is a lack of transparency around the use of this phrase, which should only be used for housing where rent is no more than 30% of a household's income.²³ This is illustrated by a current development in our local area, a Meriton development called 'Pagewood Green'.²⁴ Only 45 affordable housing units will be provided as part of a major development of 2,223 units.²⁵ This means that only about 2% of the development will be affordable housing. This is highly inadequate, barely makes a dent in the desperate need for affordable housing in south-east Sydney.

The NSW Government must ensure that there is enough affordable housing for key workers and people on lower incomes.

Recommendation 6: The NSW Government must make a long-term investment in crisis accommodation, with a focus on helping people to move from crisis accommodation to secure housing (such as social housing).

Recommendation 7: The NSW Government must make sure that crisis accommodation is fit-for purpose: in a reasonable state of repair, safe, suitable for use as crisis accommodation and accessible to people with disability.

Recommendation 8: The NSW Government must ensure that there is enough affordable housing for key workers and people on lower incomes.

Recommendation 9: Housing should only be considered 'affordable' where rent is no more than 30% of a household's income.

Barriers to additional supply across NSW, including for smaller non-CHP housing providers

We have emphasised that there is no substitute for massive government investment in social housing.

Adequate supply must be accompanied by laws and policies that support people to access and keep suitable housing. In addition to our recommendations above, we consider that more must be done to stop unfair evictions. It is deeply concerning that landlords in NSW can still evict renters without giving a reason at the end of a fixed-term agreement or during a periodic agreement.²⁶ In fact, 'no grounds' evictions have increased during the COVID-19 pandemic²⁷.

While social housing providers should be model landlords, we often see them move to evict tenants in inappropriate circumstances. Housing's Antisocial Behaviour Management Policy (**ABMP**) contributes to this by applying a punitive 'three strikes' approach to evictions.²⁸

²³ Ibid 2.

²⁴ Meriton, 'Pagewood Green' (6 August 2021) <<https://pagewoodgreen.com.au/>>.

²⁵ Bayside Council, 'Council's Community Housing' (13 May 2021)

<<https://www.bayside.nsw.gov.au/news/councils-community-housing>>; BATA II Site- 128 Bunnerong Road and 120 Banks Avenue, Eastgardens Planning Agreement 2019 cl 16.1.3 and sch 7 annexure A table 3 <https://s3-ap-southeast-2.amazonaws.com/ehg-production-australia/245b7bbd65563735f3d639da2bf168a6f33a297d/documents/attachments/000/094/288/original/130-150_Bunnerong_Road_Pagewood_VPA_BATA.pdf?1543808315>.

²⁶ Residential Tenancies Act 2010 (NSW) ss 84–85.

²⁷ Tenants' Union of New South Wales, *Supporting Renters Through the Pandemic: NSW Renters' Experience in the Private Rental Market during the COVID-19 Health Crisis* (Report, September 2020) 13 <https://files.tenants.org.au/policy/202009_TUNSW_Supporting_renters_through_pandemic.pdf>.

²⁸ NSW Department of Communities and Justice, 'Antisocial Behaviour Management Policy' (11 September 2020) <<https://www.facs.nsw.gov.au/housing/policies/antisocial-behaviour-management-policy>>.

Rather than taking a punitive ‘three strikes’ approach to evicting tenants, the NSW Government should coordinate services to support people to maintain their housing. The NSW Government should require that social housing providers:

- Do not evict tenants except as a last resort;
- Try all available interventions before moving to evict;
- Transfer tenants to another social housing property, rather than evicting tenants from social housing; and
- Ensure that former tenants have appropriate accommodation – do not evict tenants into homelessness.

Wei’s story

Wei was a long-term social housing resident with significant psychiatric illness. He lived alone with help from community-based mental health services. During his tenancy, he was hospitalised for a period of almost 6 months to receive medical treatment for a severely impacting psychiatric illness. Housing sent Wei an eviction notice for not occupying his premises in breach of their ‘allowable absences’ policy.

It was vital that Wei be allowed to spend time in his flat before discharge from hospital as part of his rehabilitation. Day visits were taking place, to be increased to overnight stays. Housing sent the eviction notice without consulting the hospital social workers or ensuring that Wei would not be evicted into homelessness. The proposed eviction greatly distressed Wei and worsened his condition.

KLC was contacted by Wei’s social worker. We assisted Wei to make a discrimination complaint, arguing that Housing’s policies were discriminatory in that people with significant disabilities sometimes need to be away from home for longer periods of time to receive medical treatment. It was only at this point that the eviction notice was withdrawn.

Recommendation 10: The NSW Government must amend sections 84 and 85 of the *Residential Tenancies Act* to end ‘no grounds’ evictions.

Recommendation 11: The NSW Government should require that social housing providers use eviction as a last resort and should not evict tenants into homelessness.

Support for and accountability of registered community housing providers

If the NSW Government chooses to rely on community housing providers, rather than directly providing public housing, the NSW Government must ensure that community housing providers are supported to meet their legal obligations and held accountable when they do not. As recommended above, the NSW Government must support community housing providers by dedicating significantly increased funding to ensure that requests for repairs, alterations and transfers social housing can be promptly addressed.

Conclusion

Secure, suitable housing is critical for physical and mental health. The extreme shortage of social housing in NSW is a crisis that impacts disproportionately on vulnerable people and their health. There is no substitute for a massive government investment in permanent social housing.

If you have any questions about this submission, please contact [REDACTED]

