



13 October 2016

Homelessness Strategy Team
Strategic Reform & Policy
Department of Family and Community Services
Locked Bag 10
STRAWBERRY HILLS NSW 2012

By email: homelessness.strategy@facs.nsw.gov.au

Dear Madam/Sir,

Foundations for change – Homelessness in NSW

Kingsford Legal Centre (KLC) welcomes the opportunity to provide a submission in response to the 'Foundations for change – Homelessness in NSW' Discussion Paper.

About KLC

KLC is a community legal centre that has been providing legal advice and advocacy to people in the Randwick and Botany Local Government areas since 1981. KLC provides general advice on a wide range of legal issues, including housing matters, and undertakes casework for clients, many of whom live in public housing, are homeless or are at risk of becoming homeless. There are almost 14,000 public housing tenants living in the Randwick and Botany Local Government areas. Many of our clients face multiple legal and non-legal issues including domestic and family violence, discrimination, loss of employment, debt, eviction and mental illness which put them at risk of becoming homeless. KLC also has a specialist employment law service, a specialist discrimination law service (NSW wide) and an Aboriginal Access Program. We also provide

outreach and advice services to prisoners at Long Bay Gaol. In addition to this work, KLC undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

Summary of Recommendations

1. Homelessness policy and homelessness prevention should consider the different types of homelessness – primary, secondary and tertiary homelessness and consider that different types of homelessness require differing policy responses. Targeted measures should be developed for high risk groups.
2. The NSW Government should develop a human rights based approach to responding to homelessness, which recognises the right to adequate housing and the interconnection between this right and other economic, social and cultural rights.
3. The NSW Government must work with the Commonwealth Government to increase the Newstart Allowance in order to reduce rates of homelessness.
4. The NSW Government must work with the Commonwealth Government to increase Centrelink Rent Assistance payments, to reflect in particular, the high market rents in the Sydney area and to improve its impact on housing affordability.
5. Social housing providers should only consider private rent to be “affordable” if it does not exceed 30% of the household’s total net income, taking into account personal debts and the particular needs of the person.
6. There should be greater investment in the specialist homelessness service sector, as well as consideration of better and longer term interventions for people experiencing homelessness other than emergency accommodation. This should include subsidised private tenancies rather than motel accommodation.
7. The over representation of Aboriginal and Torres Strait Islander people experiencing homelessness needs to be recognised and a specific culturally appropriate policy response developed in consultation with Aboriginal and Torres Strait Islander people.

8. Specific affordable housing strategies such as zoning, levies on new development as well as incentives for landlords to provide affordable housing should be considered.
9. The *Residential Tenancies Act* should be amended to remove termination on a 'no grounds' basis.
10. There should be stronger legislative protection for people living in boarding houses and lodgers from arbitrary eviction and effective mechanisms to prevent this.
11. Housing NSW needs to administer their role as landlord to evict only as a last resort and only in circumstances when all available interventions have been tried.
12. There should be positive obligations placed on Housing NSW to transfer tenants accused of 'anti-social' behaviour, particularly when they experience mental illness or have a disability. Termination of a tenancy should be sought only as a last resort and when adequate consideration has been given to whether the person is at risk of homelessness.
13. There needs to be significant investment in the professionals who can support individuals at risk of homelessness, including social workers, financial counsellors, mental health nurses, Aboriginal support workers, drug and alcohol workers and disability workers. There needs to be consideration as to whether it should be a policy aim that no-one is released from prison or hospital into homelessness and great resources provided to these groups.
14. While some tenants may be able to transition successfully into private housing due to changes in their circumstances, it should be recognised that for the majority of social housing tenants this is not an appropriate policy and indeed runs the risk of increasing homelessness and risking the well being of individual.

Our experience working with people experiencing or at risk of homelessness

It is our experience that homelessness is significantly under reported by clients when asked about their housing situation. Most clients we see are experiencing

secondary and tertiary homelessness.¹ It is very common for clients to be sleeping between friends or relatives houses. Homeless clients often do not come to us about their homelessness, as they often do not identify it as a legal issue or do not identify themselves as homeless. It is through discussing other legal issues that their homelessness comes to light.

We also see many clients in temporary, insecure and unstable housing who would be considered tertiary homeless. We remain concerned about the poor regulation of the boarding house and lodging sector in NSW which means that people can be evicted arbitrarily with little or no notice, and face significant barriers in recovering money paid. Many people who experience primary homelessness move between sleeping rough and the boarding house sector and are often unable to maintain secure accommodation within this sector. We believe there is an increased role for the NSW government to play in greater boarding house regulation, particularly around evictions.

We also see large numbers of public housing tenants who are living or are unable to live in their public housing premises due to the poor state of repair. We believe that the failure to maintain repairs in public housing leads to some people surrendering their housing.

Groups we remain particularly concerned about in terms of their experience of homelessness and access to affordable housing includes:

- Aboriginal and Torres Strait Islander people;
- women escaping domestic violence;
- people from culturally and linguistically diverse backgrounds;
- people experiencing a disability and in particular mental illness;
- people being released from prison and immigration detention.

KLC Case Study: Tiffany

Tiffany was a young Aboriginal woman who had just had a baby. She was extremely worried about the condition of her Housing NSW home. It was riddled with repair issues including lots of mould and a toilet that didn't work properly.

¹ Chris Chamberlain and David MacKenzie (2008) Counting the Homeless 2006, Canberra: Australian Bureau of Statistics, Catalogue No. 2050.0.

She was worried about the impact of her mould on her baby and did not want to stay in the premises because of this. She was extremely distressed. She was considering surrendering the tenancy and living with friends and family because her attempts to get repairs had not worked. She didn't feel she would be able to get her home safe for her baby, With advocacy from KLC and an application to NCAT Tiffany got her premises repaired. It took months, Without this help it is highly likely she would have decided being homeless was better for her and her baby.

We note that the Discussion Paper does not define homelessness but relies on census data that defines homelessness in terms of primary, secondary and tertiary homelessness² so we assume this is the premise on which the Paper operates. However, we think it is helpful to outline the different forms of homelessness as understanding these different experiences suggest different policy responses. A response to rough sleeping homelessness is different to the 'hidden' homelessness of couch surfing or staying in motels or the homelessness experienced by women fleeing domestic violence. Providing nuance to the range of experiences of homelessness we think would assist in developing effective and varied policy responses. We also believe that should be specific targets policy responses for groups that experience homelessness disproportionately. Culturally appropriate policies need to be developed in consultation with Aboriginal and Torres Strait Islander people.

Recommendation:

Homelessness policy and homelessness prevention should consider the different types of homelessness – primary, secondary and tertiary homelessness and consider that different types of homelessness require differing policy responses. Targeted measures should be developed for high risk groups.

Housing as human right – barriers to housing

² Chris Chamberlain and David MacKenzie (2008) Counting the Homeless 2006, Canberra: Australian Bureau of Statistics, Catalogue No. 2050.0.

Increasingly in NSW and across Australia housing affordability is now discussed as a social and cultural reality. Likewise, discussions about homelessness emphasise that homelessness is not a response to unaffordability alone but a complex mix of life events. The Government's Discussion paper, *'Foundations For Change – Homelessness in NSW'* makes this observation - that life circumstances are a factor in homelessness.³

KLC believes that while we must recognise the complexity of homelessness and the reasons people become homeless or are at greater risk of homelessness we must continue to place issues such as affordability, economic security, security of tenure and the adequate funding of social housing as central to preventing homelessness. Housing affordability is an issue within the remit of Government to influence, and it cannot be accepted as a reality in which homelessness policy must operate. It is unlikely that a homelessness policy that does not address these wider macroeconomic and systemic issues will be successful in reducing homelessness even if it does improve services and linkages for people at risk of or experiencing homelessness. We welcome the recognition in the Discussion Paper, of the high levels of mortgage and rental stress for low income families and would support strategies that identify ways in which rental stress in particular can be alleviated through the provision of more affordable housing.⁴

Kingsford Legal Centre believes that successful policy in the area of homelessness must entrench the human right⁵ to housing and recognise that this right should be a central tenet of homelessness policy. We also believe a human rights approach to homelessness would recognise the interconnection between the right to adequate housing and the protection of other human rights such economic, social and cultural rights which could prevent homelessness. We urge the NSW Government to use this framework as the protection of the rights of people experiencing or vulnerable to homelessness will positively impact on homelessness rates.

³ NSW Government 'Foundations for Change – Homelessness in NSW Discussion Paper' September 2016 at 6

⁴ 'Foundations for Change – Homelessness in NSW Discussion at 6

⁵ Article 25(1) of the *Universal Declaration of Human Rights* General Comment 15 of the United Nations Committee on Economic, Social and Cultural Rights.

Recommendation:

The NSW Government should develop a human rights based approach to responding to homelessness, which recognises the right to adequate housing and the interconnection between this right and other economic, social and cultural rights.

Economic insecurity is also central to understanding the issue of homelessness. In particular, the failure of the Newstart allowance to be increased in real terms has a direct impact on the ability of people to obtain and maintain secure housing. The maximum payment for a single person on the Newstart allowance is currently \$528.70 per fortnight.⁶ This is only \$37.76 per day, and makes housing in Sydney almost impossible to afford.⁷ This puts households relying on Newstart at significant risk of poverty,⁸ and homelessness. ACOSS has recommended an increase of \$53 per week in the single allowance rate is required to prevent households relying on the allowance falling below acceptable living standards.⁹

While we recognise that social security payments are the responsibility of the Commonwealth Government, the direct correlation between adequate levels of income support and developing a sustainable and effective policy to prevent homelessness cannot be ignored. The NSW Government must work with the Commonwealth Government to increase the Newstart Allowance in order to reduce rates of homelessness.

Recommendation:

The NSW Government must work with the Commonwealth Government to increase the Newstart Allowance in order to reduce rates of homelessness.

⁶ <https://www.humanservices.gov.au/customer/services/centrelink/newstart-allowance>. The maximum payment increases to \$571.90 for people with dependent children. People receiving the Newstart allowance may also be eligible for a rent assistance payment.⁶ The maximum fortnightly payment for a person without dependent children is \$130.60, but this reduces to \$87.07 if they are living in shared accommodation. Higher payments are available for people with children, up to \$173.18.

⁷ Budget Priorities Statement 2016-17, Australian Council of Social Service, 31. The last significant review of the Newstart allowance was in 1994 and this is currently with the lowest unemployment benefit in the OECD

⁸ Budget Priorities Statement 2016-17, Australian Council of Social Service, 32.

⁹ Budget Priorities Statement 2016-17, Australian Council of Social Service, 33.

In KLC's community like many parts of Sydney, Centrelink Rent Assistance payments barely make a dent on housing affordability.¹⁰ So while a complex mix of life events may contribute to a person's homelessness, economic insecurity is in our opinion a leading reason for people being at risk of homelessness and falling into housing insecurity. This is reflected in homelessness service data, which identifies, housing crises, financial difficulties and housing affordability as the primary reason 38% of people accessing services cited for their homelessness.¹¹ Commonwealth Rent Assistance has not increased proportionately to the increase in renting costs. Between 2000 and 2005, rents in the private rental market increased by an average of \$64 per fortnight compared with an average increase in Rent Assistance of \$18.¹² Further, Rent Assistance does not account for the differences in rental costs in different locations. For example, private renters in Sydney, an area with high rental costs, are eligible for the same maximum Rent Assistance as renters in areas where the average rent is much lower. In our opinion Rent Assistance is ineffective in the Sydney region for increasing housing affordability for most low income people.

Recommendation:

The NSW Government must work with the Commonwealth Government to increase Centrelink Rent Assistance payments, to reflect in particular, the high market rents in the Sydney area and to improve it's impact on housing affordability.

Access to Affordable Housing

In the 1960 to 2006 period, average household real income increased by 1.9% annually, whereas house prices increased by an average of 2.6% annually.¹³

¹⁰ The maximum fortnightly payment for a person without dependent children is \$130.60, but this reduces to \$87.07 if they are living in shared accommodation. Higher payments are available for people with children, up to \$173.18.¹⁰

¹¹ NSW Government 'Foundations for Change – Homelessness in NSW Discussion Paper' September 2016 at 6

¹² 'Foundations for Change – Homelessness in NSW Discussion at 8

¹³ Yates, Judith for the Brotherhood of St Laurence, 'Tax expenditure and housing' Australian Housing and Urban Research Institute' (2009).

¹³ Yates, J. and Milligan, V. with Berry, M., Gabriel, M., Phibbs, P. Pinnegar, S. and Randolph, B. (2007) Housing Affordability: A 21st Century Problem: National Research Venture 3: Housing Affordability for Lower Income Australians, Melbourne: Australian Housing and Urban Research Institute.

The gap between household income and housing costs increased markedly at the turn of the millennium. Between 2001 and 2006, gross income grew by 31.2%, whereas housing costs grew by 62%.¹⁴ The growing gap between household income and housing costs has increased the demand for affordable housing.

The housing affordability crisis in NSW is felt acutely by a wide range of groups, including people on social security, people with a disability, Aboriginal and Torres Strait Islanders, people from culturally and linguistically diverse communities, less well-resourced students, community workers, low paid and casual workers and people with a less than perfect renting record. In our experience there is a hidden group of people who are moving constantly from insecure accommodation, to insecure accommodation and in some cases into hospitals or prison and back into insecure accommodation.

Despite this growing and well documented need for affordable housing, there has been decreasing investment in building new public housing stock. The current public housing stock is decaying and being inadequately maintained. At the same time, the criterion to be eligible for public housing has become much more stringent.¹⁵

When we operate in a context in which affordable housing is limited in its availability, the scarcity of affordable housing will operate in a way in which the most vulnerable people become homeless. This is because people most vulnerable to homelessness require significant resources in order to remain housed and will often be found to be in breach of the terms of their leases if a strictly contractual approach is taken to the management of their housing.

From our experience in the social housing sector these tenancy breaches will often occur by people experiencing mental illness who are not receiving sufficient support to manage their condition. In the private sector – predominately private tenancies and boarding house accommodation, the sheer economic reality of meeting Sydney rents on limited Centrelink incomes means

¹⁴ Ngu, Q., Harding, A., Tanton, R., Nepal, B. and Yogi, V. (2008) *Advance Australia Fair?* Canberra: National Centre for Social and Economic Modelling (NATSEM) and AMP.

¹⁵ Morris, Alan (2010) 'The lack of a right to housing and its implication in Australia' *Journal of Australian Political Economy* No 65.

that many people are constantly at risk of being in rent arrears and having their lease terminated. For the most part these people rely almost entirely on the charitable sector to step in and maintain their housing in moments of extreme crisis. From our observation, increasingly charities are unable to provide this support unless they are convinced that the housing is 'sustainable'. For many clients the financial reality is that they are in rental stress and that the rent payments are not objectively sustainable.

KLC consultations on housing stress:

KLC has widely consulted with our local community on the impact of rental stress, low income and their housing stability¹⁶. Our clients told us that without public housing they are unlikely to find housing:

"I really can't afford it afford to go if you move me." *Alby, public housing tenant*

"I'm still on Centrelink disability I still can't afford to access the market rent out their specially in this area from paying \$98 a week you have to pay something like \$500 a week for a place like mine in this area and that's just not affordable for anyone in my circumstance." *Elsie, public housing tenant.*¹⁷

Pressure on public housing waiting lists means that people experiencing homelessness are unlikely to be approved on a priority basis without other exacerbating characteristics ,which usually must be severe. As the Discussion Paper highlights, people with a disability are unlikely to obtain priority housing status.¹⁸ It is common for KLC to see clients who are homelessness, in terrible

¹⁶ In 2015 Kingsford Legal Centre held consultations with social housing tenants on issues such as the future of public housing and sought feedback on issues of housing security. These quotes come directly from those consultations. See Kingsford Legal see Submission to the NSW Government 'Social Housing in NSW' February 2015 available at <<http://www.klc.unsw.edu.au/sites/klc.unsw.edu.au/files/15%20Sub%20-%20NSW%20Government%20-%20Social%20Housing%20in%20NSW.pdf>> at 11

¹⁷ At note 1 at 11.

¹⁸ NSW Government 'Foundations for Change – Homelessness in NSW Discussion Paper' September 2016 at 6

¹⁸ 'Foundations for Change – Homelessness in NSW Discussion at 32.

situations with no real prospect of stable accommodation. Even in these circumstances, these clients are not eligible for priority housing, they however, can not afford to enter the private market and often in desperation enter into unsustainable, substandard tenancies to avoid or delay homelessness. Individuals without family and friendship networks are at this point extremely vulnerable to street homelessness.

KLC Case study: Martha

Martha is 66 years old and had been living in public housing for the past 25 years with her abusive husband. Her husband was the tenant and she was an authorised occupant. After Martha's husband left her, she found out that he was running several businesses. Martha doesn't have any access to profits from the businesses. Her sole source of income is the aged pension. Martha applied to remain living in the property, however her request was denied because Housing NSW recognition as a tenant policy does not apply in circumstances of family breakdowns. Martha was not eligible to be housed elsewhere either because her husband ran a business, even though she did not have access to any of the profits of the business and could not afford to rent in the private market.

In our experience, current eligibility restrictions for public and community housing based on findings that applicants can resolve their need in the private rental market are unfair and unrealistic, and put people at increased risk of homelessness. Under current Housing NSW policy, applicants are considered to be able to afford private rental accommodation if there are private properties that would cost 50% of their income in rent. This is despite all recognised housing affordability measures placing housing affordability at 30% of a person's income. The policy also fails to consider the real financial circumstances of applicants by excluding factors such as debt, and whether an applicant is actually able to secure a private property, which for many people on low income is extremely difficult. This is especially the case for people with specific housing needs, including people with disabilities and people who require housing in a particular locality (for proximity to medical services or

schools) or for people with poor private rental histories. We have noticed this impact, particularly for women escaping domestic violence.

Recommendation:

Social housing providers should only consider private rent to be “affordable” if it does not exceed 30% of the household’s total net income, taking into account personal debts and the particular needs of the person.

Funding of homelessness services

The provision of services to assist people who are homeless in NSW are severely underfunded. There is also no one agency responsible for assisting people when they become homeless. Public housing in NSW remains inadequately funded and in significant demand. Demand also outstrips available beds within specialist homelessness refuge services¹⁹ and in some cases this form of accommodation is not suitable for families. For people able to secure temporary refuge or emergency accommodation there is a real problem as to where they can be transitioned to on a longer term basis in the context of long public housing lists and a lack of affordable housing.

Short term emergency accommodation where Housing NSW provides stays in motels is often very unstable and is often given on a day-by-day basis only. For women with children this often becomes the only option for them and it is a very distressing and unpredictable form of assistance. It also is impractical with women often needing to check out each day, move their children and belongings and present again to Housing NSW to request assistance again. This form of motel accommodation is also very unsuitable for families with inadequate facilities for meal preparation which places more financial pressure on families who have to purchase meals outside the home.

We are concerned that there is a lack of detail in the discussion paper on how specialist homelessness services can be better resourced to deal with the

¹⁹ Australian Government Australian Institute of Health and Welfare 'Specialist Homelessness Services 2014-2015' < <http://www.aihw.gov.au/homelessness/specialist-homelessness-services-2014-15/>>

current demand on these services. We also think there is a role to play in considering the role specialist services in particular for women experiencing domestic violence, which make up about one third of requests for assistance.²⁰ As we noted earlier we believe there is a benefit in considering different types of homelessness within a nuanced policy response and we would particularly emphasise the need for a specific response in relation to women and children escaping domestic violence. We support the increase in funding for 'Staying Home Leaving Violence' but would also support the expansion of this programme to include women outside social housing.

The over representation of Aboriginal and Torres Strait Islander people experiencing homelessness needs to be recognised and a specific culturally appropriate policy response developed in consultation with Aboriginal and Torres Strait Islander people.

Recommendation:

There should be greater investment in the specialist homelessness service sector, as well as consideration of better and longer term interventions for people experiencing homelessness other than emergency accommodation. This should include subsidised private tenancies rather than motel accommodation.

Recommendation:

The over representation of Aboriginal and Torres Strait Islander people experiencing homelessness needs to be recognised and a specific culturally appropriate policy response developed in consultation with Aboriginal and Torres Strait Islander people.

Increasing the availability of affordable housing:

According to the NSW *Future Directions* paper, the current NSW government response to housing supply is through Communities Plus and the Social and Affordable Housing Fund. These programs involve the delivery of approximately

²⁰ Australian Government Australian Institute of Health and Welfare 'Specialist Homelessness Services 2014-2015' < <http://www.aihw.gov.au/homelessness/specialist-homelessness-services-2014-15/>>

8000 new affordable homes by 2025. The NSW Federation of Housing Associations suggests that the number of affordable homes needed to adequately address demand over that period is closer to 100,000, with over 60,000 people currently on the social housing waiting list alone. This means there will be a projected shortfall of over 80,000 affordable homes, which will only exacerbate demand and increase housing stress.

The NSW government should focus on the provision of new social and affordable homes to meet these projections. Strategies like inclusionary zoning and affordable housing levies on new development are among the preferred strategies for addressing this shortfall. Increasing supply should be supplemented by rental assistance schemes and government incentives for landlords to provide affordable rental options. Without these measures, demand for social housing will increase and tenants will be unable to transition to the private rental market due to a lack of affordable entry level homes. This will push an increasing number of people into homelessness or greater risk of homelessness.

Recommendation:

Specific affordable housing strategies such as zoning, levies on new development as well as incentives for landlords to provide affordable housing should be considered.

The role of the private sector

Central to the prevention of homelessness in NSW is the need to reconsider the current statutory right of landlords to terminate tenancies without any grounds.²¹ This statutory provision is antithetical to housing as a human right as well as to the development of renting as a long term stable housing option. Instability in rental tenure creates housing instability and financial insecurity. Families in the private rental market often face difficulties in long term planning due to the uncertainty of their housing tenure. Likewise the costs of frequently moving places further financial pressures on families and puts them at greater risk of homelessness. KLC also has observed that 'no grounds' termination notices are

²¹ *Residential Tenancies Act 2010* section section 85

often issued simply in response to tenants asserting their rights to repairs, We also observe that frequently tenants must fight to retain their bond without any real justification adding to the financial cost of these evictions.

Similarly the boarding house sector remains under-regulated and there is a lack of legislative protection for lodgers in boarding houses from arbitrary eviction. The *Boarding Houses Act* 2012 has not stopped the stem of very unfair evictions on little or no notice,²² this has had the dual effect of not increasing the security of tenure of boarding house residents so they remain tertiary homeless as well as pushing very marginal lodgers into primary homelessness. We remain concerned that vulnerable groups who are often excluded from public housing and have often spent time institutionalised (in prison or hospital) do not have minimum protections in law that would reduce and prevent arbitrary eviction and homelessness. We also believe that large numbers of lodgers are not covered by the *Boarding Houses Act* 2012 and are subjected to widespread financial exploitation, poor living conditions and arbitrary eviction without redress.

Recommendation:

The *Residential Tenancies Act* should be amended to remove termination on a 'no grounds' basis.

Recommendation:

There should be stronger legislative protection for people living in boarding houses and lodgers from arbitrary eviction and effective mechanisms to prevent this.

Support for vulnerable tenants and people at risk of homelessness

Homelessness policy in NSW needs to recognise the NSW Government as a huge public landlord is often responsible for the eviction of very vulnerable people into homelessness. Once homeless these people are at great risk of long term homelessness due to the unlikelihood of securing private rental and being excluded from public housing as 'former unsatisfactory tenants'.

²² The Act does not set out minimum termination terms or provide effective redress to prevent evictions.

It is KLC's experience that public housing is not administered in collaboration with other government services, and public housing tenants, by and large do not receive the necessary social, medical and mental health support they require to maintain successful tenancies and necessary to create positive communities. It has been well documented that while public housing is now only available to people with more complex needs, there has been no associated service strategy to assist in the provision of housing to this group. Likewise, Housing NSW does not administer and service this group with any real expertise in dealing with the complex issues faced by their tenants, and instead often takes a punitive rather than a health approach to issues such as mental illness.

It is our opinion that the greatest strategy the NSW Government has in preventing and reducing homelessness is through the way in social housing manages vulnerable tenants at risk of homelessness and in increasing the availability of social housing to increase the availability of affordable housing.

KLC Case Study: Sen

Sen (client) Sen is 30 years old. His mother was an alcoholic and was murdered when he was 18 years old. He suffers from anxiety, panic attacks and other psychiatric disorders. He engages in sex work to fund his drug and alcohol addiction. Neighbours assaulted him in his public housing complex. People began staying in his public housing unit without his permission. Fearful of them he left his unit for a period of time. When he returned his unit was trashed. Housing NSW evicted him from his property and he is now homeless and ineligible for public housing because he breached his residential tenancy agreement.

KLC Case study: Sebastian

Sebastian is over 80 years old and lives with a vision impairment and significant mental illness. His English is limited. He lived in a Housing NSW flat with his partner, who was also his primary carer. The lease for the flat was in his partner's name. While in hospital for treatment his partner took out an interim AVO against him which meant that he could not return to the flat. He did not have any family he could stay with. The Hospital's Social Worker became aware of the housing situation, but

could not extend his stay at the Hospital. The Social Worker and KLC assisted Sebastian to apply for social housing in his own right, but Housing NSW advised that it could be over a year before he was found a place to live. Sebastian was offered limited emergency housing in motels, but this eventually ran out. He began to sleep in parks or on friends' couches. KLC advocated on Sebastian's behalf with Housing NSW, and co-ordinated support letters from medical professionals and social workers. Because of his age, disability and basic English he was unable to do this himself. After daily contact from KLC for over three weeks Housing NSW eventually offered him the lease to a unit. In the mean time he experienced more than a month of homelessness sleeping in parks, friends' couches or hospital, a truly appalling situation for an elderly blind man.

The complex role social housing plays as a primary way in which homelessness is prevented needs to be considered when decisions are made by Housing NSW or community housing providers as to whether a tenancy should continue. Shifts toward increasingly punitive approaches to 'anti-social' behaviour such as 'strike notices' by NSW Housing fails to see Housing NSW within a more holistic policy framework as a key agency in preventing homelessness. KLC remains concerned that these policies in fact target the most vulnerable tenants – those most likely to become long term homeless. While we recognise that Housing NSW must balance their obligations as a landlord to other tenants, there is also a dual role that the agency should play in ensuring that people remain housed. There should be positive obligations placed on Housing NSW and community housing providers to provide support services to tenants or to transfer tenants accused of 'anti-social' behaviour, particularly when they experience mental illness or have a disability. Termination of a tenancy should be sought only as a last resort and when adequate consideration has been given to whether the person is at risk of homelessness. We do not believe this currently occurs.

Recommendation:

Housing NSW needs to administer their role as landlord to evict only as a last resort and only in circumstances when all available interventions have been tried.

Recommendation:

There should be positive obligations placed on Housing NSW to transfer tenants accused of ‘anti-social’ behaviour, particularly when they experience mental illness or have a disability. Termination of a tenancy should be sought only as a last resort and when adequate consideration has been given to whether the person is at risk of homelessness.

There is also a lack of access to community service professionals – social workers, financial counsellors, mental health nurses, Aboriginal support workers, drug and alcohol workers and disability workers that are critical to preventing people becoming homeless and helping them sustain their housing. There is a lack of investment in these resources. It is uncommon for our clients to have the support of a specialist worker which is often why their housing has become at risk necessitating the need for legal assistance. Investment in adequate community supports as an early intervention will be a cheaper investment than dealing with the cost of homelessness.

KLC also works closely with prisoners close to release from jail, and people who are in hospital but have no stable accommodation available. It is notable that many prisoners are released and receive a Newstart allowance, making private tenancies unaffordable. Very often they are also considered former unsatisfactory tenants and are not eligible for social housing. For people in hospital it is apparent that their housing instability has come to light in a time of crisis and that they are not in receipt of any support services in the community.

KLC Case Study- Zhang

KLC was contacted by Zhang's hospital social worker. Zhang received a notice of termination by Housing NSW. She was being evicted because she had been absent from her house for longer than the “allowable”

period under Housing NSW's policies. Zhang had been receiving medical treatment for a severely impacting psychiatric illness the entire time she was "absent". It was vital to her rehabilitation that she be allowed to spend time in her flat before being discharged from hospital. At the time we first met the client she had just started day visits to her flat as part of her rehabilitation program, that was to be gradually increased to overnight stays. Housing NSW had not consulted her hospital social workers or made sure that Zhand had alternative accommodation before sending the notice of termination. The proposed eviction greatly distressed Zhang, and exacerbated her condition. KLC lodged a discrimination complaint before Housing NSW could file at the Tribunal to commence proceedings to evict her. We argued that Housing NSW's policies were discriminatory in that people with significant disabilities sometimes had to be away from their homes for significant periods of time in order to receive medical treatment. This example shows a complete lack of collaboration between Housing NSW and health services and a disregard for the significance of stable accommodation in the rehabilitation process.

KLC Case Study- Lev

Lev was charged with a criminal offence and was sentenced to 13 months in prison. His permanent visa was then cancelled on the basis of his criminal record. He spent a further 12 months in immigration detention while his request to have his visa re-instated was considered. After being given back his permanent visa, he was sent back to his home town in regional NSW. By that time he had lost his tenancy in his former home. He also did not have any family he could live with. He is currently homeless. His only source of income is Newstart Allowance. He has lost his references and identity papers, and finding it difficult to find work because of this. Housing NSW is not considering him eligible for priority housing, and is insisting he provides them with identification documents.

Recommendation:

There needs to be significant investment in the professionals who can support individuals at risk of homelessness, including social workers, financial counsellors, mental health nurses, Aboriginal support workers, drug and alcohol workers and disability workers. There needs to be consideration as to whether it should be a policy aim that no-one is released from prison, immigration detention or hospital into homelessness and greater resources provided to these groups.

Should social housing be transitory?

In Part 4 of the *Discussion Paper* it is stated that transitioning tenants out of social housing is a government priority. In some situations, the move to private rental may be appropriate, but it cannot be considered an appropriate policy response to homelessness. We believe that there needs to be a recognition that the bulk of social housing tenants they are unlikely to be able to be transitioned out of social housing in a way that does not place them at risk of homelessness. This is particularly the case for people in receipt of Centrelink incomes or on very low and irregular wages. We do not see this 'transitioning' process as a policy which will significantly impact on homelessness rates by freeing up social housing stock, and indeed runs the risk of placing people at greater risk of homelessness by not providing security of tenure. It is not an adequate alternative to investment in social housing.

We also need to be cautious that we don't create further systems that just cycle very at risk groups through social housing for short periods of time, out into the private sector and only when things get very bad for clients (such as sleeping rough for long periods or hospitalisation) are they readmitted back into social housing. This process in itself is traumatising and makes it harder to intervene to improve issues such as mental health which increase the likelihood of maintaining long term housing. In general, we need to keep people housed and provide support services to them while housed, and if they succeed with this approach, we should continue our commitment to house them rather than risk undoing this work through a transitioning process. Having 'successes' within social housing improves the social mix and should be encouraged.

Recommendation:

While some tenants may be able to transition successfully into private housing due to changes in their circumstances, it should be recognised that for the majority of social housing tenants this is not an appropriate policy and indeed runs the risk of increasing homelessness and risking the well being of individual.

Yours faithfully,

KINGSFORD LEGAL CENTRE

A handwritten signature in black ink, appearing to be 'AC', written in a cursive style.

Anna Cody

Director

Maria Nawaz

Law Reform and policy Solicitor

Emma Golledge

Principal Solicitor

Oliver Ray

KLC Law Clerk