

**SUBMISSION TO DEPARTMENT OF
SOCIAL SERVICES – HOUSING AND
HOMELESSNESS PLAN**

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A Ground Floor
445 Hay St
Perth, WA, 6000

T (08) 6148 3636
E administration@circlegreen.org.au
W circlegreen.org.au **ABN** 53 788 553 148

Support for this submission

This submission is made on behalf of the Tenancy Network, contributions and endorsements have come from the following organisations:



Circle Green acknowledges the support of the Tenancy Network, and specifically acknowledges the data and insights provided by the network members.



Executive summary

Circle Green Community Legal ('Circle Green') is a community legal centre providing specialist legal services for tenants in Western Australia. Circle Green co-ordinates the tenancy network in Western Australia, a network of community legal centres, many of whom have contributed to this submission.

Western Australia urgently requires reform of state residential tenancies legislation and significant investment in social and affordable housing. Changes in these areas could make a significant contribution to the reduction of homelessness and the provision of housing in the state.

Western Australian residential tenancies legislation must be reformed, in particular, an end to without grounds evictions, as has taken place in nearly every other state and territory. In addition, we urgently call on the federal and state governments to increase and sustain investment in social and affordable housing in Western Australia.

The creation of ample housing supply is not alone sufficient to prevent homelessness, there must be supportive and culturally appropriate legislation, policy and support services in place in order to create an environment suitable to provide for the long-term housing needs of renters.

Introduction

Thank you for the opportunity to provide these submissions to the National Housing and Homelessness Plan.

Circle Green Community Legal ('Circle Green') is a Western Australian community legal centre that was formed in 2020 by a merger of three specialist community legal centres. Circle Green provides state-wide specialist legal services in employment, residential tenancy law, and humanitarian law. We provide legal advice to tenants across Western Australia, including a large proportion identifying as at risk of, or experiencing homelessness. Circle Green is a member of a broader tenancy network, a network of community legal centres who provide tenancy legal services across metropolitan and regional Western Australia. Many of these legal centres have contributed to, or endorsed, this submission.

Circle Green and members of the tenancy network provide services to a diverse client base of renters, many with a variety of complex needs. Many of the tenants we work with are highly vulnerable and disadvantaged members of the community and experiencing homelessness or at significant risk of homelessness. Our submissions are informed by the reported experiences of these renters.

As a Western Australian organisation and tenancy network, we limit our submissions to the Western Australian context, particularly the laws affecting renters in Western Australia and public and community housing tenancy management policies and how these matters contribute to the lives of people experiencing or at risk of homelessness. While we speak primarily from our experience in the Western Australian context, our submissions could be adapted to a broader national scope.



3.1 Homelessness

In response to:

- What short, medium, and long-term actions can governments take to help prevent homelessness or to support people who may be at risk of becoming homeless?
- How can the homelessness system more effectively respond to those at risk of, or already experiencing homelessness?
 - How can the homelessness system ensure those at risk of homelessness or in crisis receive appropriate support to avoid homelessness or so they are less likely to fall back into homelessness?
 - What actions can governments take to facilitate early intervention and preventative responses?
- What are the different challenges for people experiencing homelessness in urban, regional, and rural areas?
- How can governments capture better evidence on 'hidden' or 'invisible homelessness (e.g. couch surfing, living in a car and overcrowding)?

In Context

The 2021 ABS Census estimated that there were around 9700 people in WA experiencing homelessness¹. Given the geographic size of Western Australia, homelessness can be experienced differently in metropolitan areas compared to regional and remote areas. In metropolitan areas, there is more access to emergency and transitional housing while in regional areas, there is a higher incidence of rough sleeping and overcrowding.

Housing insecurity and instability can result in difficulties obtaining or maintaining employment, increased demand for health services, and loss of community and social networks. Research on the costs of homelessness has found the cost to government of people cycling in and out of homelessness is significant, requiring a large amount of resourcing in health, community services, and the justice system². This is even more relevant for people experiencing or with history of family and domestic violence (FDV), those with mental health concerns, and those with children.

Proposal

Summary proposals

There are a number of proposals that are expanded on in more detail in answering later questions however they can be raised briefly in answering questions in this area. Western Australia will need:

- Greater investment in social housing is needed to increase the number of available properties but also to maintain current stock.
- Social and Community Housing providers to be prepared to provide support and assistance to tenants to help them maintain their housing.
- Law reform including removal of without grounds termination in both private market and social housing and better procedural fairness.
- Continued and expanded access to, and funding of support and legal services.

¹ Australian Bureau of Statistics, 'Estimating Homelessness: Census 2021' (web page) <<https://www.abs.gov.au/statistics/people/housing/estimating-homelessness-census/2021>>

² Tenant Union New South Wales, *Eviction, Hardship, And The Housing Crisis*, (Special Report, February 2022).



Promotion of Services and Community Legal Education

Greater investment is needed to promote the available services as well as funding of Community Legal Education. Education can provide some understanding or context to many facets of society and sessions can be used to promote services that can help with more complex needs. For example, a community legal education session on basic tenancy rights and obligations is an opportunity to connect people with services where they may need a higher level of assistance or particular advice. Community Legal Education plays an important role in ensuring that legal knowledge is accessible to all, and investment is needed to reach those especially vulnerable renters more susceptible to experiencing homelessness. An extensive variety of methods can be used to reach the widest possible audience including the use of plain English materials, easy read materials, translated materials and braille, consultation with lived-experience panels and expanded funding could mean building a catalogue of these resources for distribution.

Combating Geographical limitations

The size of Western Australia makes it difficult to offer homelessness services in remote and regional areas. There are aspects of the city services that can apply the economy of scale that cannot be replicated in much smaller towns and remote areas. There needs to be adequate funding to be able to provide services as far and wide as possible.

By Name List Expansion

Expansion of by-name list projects could help capture better evidence of 'invisible homelessness'. In maintaining a by-name list there is valuable and detailed information that could be used to match individuals with housing solutions. The by-name list program in Brisbane saw promising results, effectively reducing the average length of time a person spent experiencing homelessness from 7.7 years in 2013 to 4.6 years in 2022 (40% reduction)³. Local government may be engaged to provide support or engagement opportunities.

Aspirational Model

Australia should aspire to end homelessness and could take some inspiration from countries seeing some success in reducing homelessness. Finland has been actively tackling homelessness through a Housing First approach which aims to provide immediate, independent, permanent housing rather than temporary accommodation⁴. Moving from a safety net approach with emergency and transitional housing to a housing first approach with persons being securely and permanently housed allows the person to then access the wraparound supports necessary to stay housed. This way support services can develop more efficiently and better focused. The Housing First model could be adapted to the Australian context and should not be implemented as a carbon copy of the European model which might be doomed to fail without taking into account the nuances of the Australian system and culture.

³ Kaitlyn Ranney, 'Brisbane Zero Reduces The Average Length Of Time A Person Experiences Homelessness By 40% With The Help Of Real-Time, By-Name Data', *Community Solutions*, (13 March 2023) <<https://community.solutions/case-studies/brisbane-zero-reduces-the-average-length-of-time-a-person-experiences-homelessness-by-40-with-the-help-of-real-time-by-name-data/>>.

⁴ Y-Foundation, *A home of Your Own, Housing first and ending homelessness in Finland*, (Otava Book Printing Ltd, Keuruu, 2017).



3.2 Homelessness Services

In response to:

- What are the best specific early intervention approaches to prevent someone becoming homeless?
- What are the medium and longer-term steps that can be taken to ensure we have a more consistent and coordinated service system to support people who are experiencing or at risk of homelessness?

In Context

According to recent statistics by ABS, Western Australia had the lowest rate of homelessness at 37 people per 10,000 in 2021 but Western Australia had the highest proportion of people living in improvised dwellings, tents, or sleeping out (23.8%)⁵. While there are services and organisations that seek to help, they appear to be underfunded and under-resourced meaning they cannot meet the demand.

Proposal

Continuation and expansion of Tenant Advocacy

Legal services, in particular free or low-cost community legal centres with tenancy services provide early intervention to tenants at risk of homelessness. Many tenants, landlords and a distinctly high proportion of real estate professionals have a limited understanding of the rights and obligations in relation to residential tenancies. In many cases, a tenancy might be sustained if the eviction is to occur on certain grounds. Even where an eviction is to occur without grounds, then access to legal advice can assist a tenant to delay an eviction which can give an individual more time to find suitable accommodation. Continued and expanded funding of community legal services is necessary to ensure access to quality legal assistance where an individual is faced with eviction from private or public rentals.

Wraparound support

There needs to be funding of specialised support services for people with particular needs whether this is a situational need or a health need. The Community Living Supports and Housing and Accommodation Support Initiative are local examples of successful community based mental health programs that impact housing and homelessness⁶.

It is possible to create a holistic wraparound support by utilising and combining the skills of a number of different support areas. From 2017 until funding ceased in 2020, there was a strong example of an effective Housing First approach in the Safe as Houses Program. A collaboration between community legal centres, hospitals and health centres to provide case-managed legal and support services to prevent women and children's homelessness

⁵ Australian Bureau of Statistics (n1).

⁶ NSW Ministry of Health, *Evaluation of NSW Community-based Mental Health Programs: Community Living Supports and Housing and Accommodation Support Initiative. CLS-HASI evaluation report 2022*, (Report, 2022).



after domestic violence⁷. This service reflected best practice and cutting-edge service delivery in a number of areas including:

- Collaborative and coordinated service delivery between three specialist community legal centres, with comprehensive information sharing on client matters;
- Health justice partnerships with the women's hospital and women's community health service;
- Coordinated legal and non-legal support (long recognised as best practice but rarely funded);
- Tailored legal health check tool for identifying the full range of legal, financial and social issues putting a woman and her children at risk of homelessness;
- Services directed at preventing homelessness, rather than simply the delivery of an advice.

3.3 Aboriginal and Torres Strait Islander Housing

In response to:

- What are the main cultural, social and economic factors that must be considered by governments and providers (including ATSI CCHOs) when considering how to improve housing outcomes for Aboriginal and Torres Strait Islander people?

In Context

Aboriginal and Torres Strait Islanders have a strong connection to family and a culture of sharing accommodation. Aboriginal households are more likely to be family households and less likely to be single person households⁸. The household size can fluctuate with visitors who might stay temporarily or more permanently. This overcrowding can lead to various issues which in turn lead to a negative response from both social housing providers and private landlords. Where an eviction occurs due to overcrowding or its symptoms, it creates a snowball effect as the members move to another household. This is despite the National Closing the Gap target to ensure 88% of Aboriginal people live in appropriately sized (not overcrowded) housing.

Some households face eviction in part due to high levels of intergenerational trauma which are the underlying issues creating barriers to meeting all tenancy obligations. This is particularly true for Aboriginal tenants, who carry the burden of trauma from colonisation (massacres, stolen generation, over incarceration, stolen land and stolen wages resulting in intergenerational poverty). This is a key issue in evictions from social housing. The Housing Authority in WA has no specific strategies to successfully deliver social housing for Aboriginal people and Aboriginal people make up more than half of all evictions from public

⁷ Kate Emery, 'Tenancy WA's Safe as Houses violence victim service at risk', *The West Australian* (online, 14 July 2018) <<https://thewest.com.au/news/perth/tenancy-was-safe-as-houses-violence-victim-service-at-risk-ng-b88895302z>>.

⁸ Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander people: a focus report on housing and homelessness* (Report, 2019).



housing (and no strategies to address the high levels of severe crowding in Aboriginal public housing tenancies).

The issues paper raises that ATSI people are more likely to relocate regularly, but what isn't mentioned is that these moves are often between the same handful of locations, and that it is important they have a home base to return to. This home base accommodates many individuals. For many families, it doesn't make sense for these individuals to have their own property, because they are so transient either for work or cultural reasons.

Experiences of renters

██████████ case study

██████████ a █████-year-old Aboriginal mother of a █████-year-old ██████████ fled a severely violent relationship ██████████ and have been couch-surfing since. When ██████████ left her tenancy due to the FDV, she received a tenant liability of \$19,000; however, due to their complicated trauma and homelessness status, she did not apply.

██████████ has applied for a bond loan but was found ineligible because of the Old Debt; she has a new Housing application in place but may be waiting between 3-15 years for a property to become available. ██████████ are unable to stay at any of the ██████████ emergency services together as they do not house male adolescents over the age of 12 years old, ██████████ does not want to be separated from her son particularly given his escalating behaviours.

██████████ may have to leave the region due to their ineligibility for a Bond loan, excessive private rents and no emergency or transitional housing that supports a mother/son family structure. Relocating from the region will disrupt their connection to the country and culture, further negatively affecting their cultural and emotional well-being.

Proposal

A specific eviction prevention support program should be co-designed with social housing tenants and Aboriginal community representatives and have the capacity to provide long term holistic case management support for all social housing tenants at risk of eviction. The program development process could benefit from a review of the previous SHAP (Supported Housing Assistance Program) and STEP (Support and Tenant Education Program) programs, as SHAP provided more holistic and long-term support, than the current THRIVE program.

Genuine consultation on strategy, policy, and implementation is needed and this might be done through public housing tenant reference committees & Aboriginal community reference committees.



Noongar Mia Mia, an Aboriginal Community Housing Organisation in the Perth metropolitan area, has produced its only Housing First Principles⁹ which takes into account the relevant cultural aspects of the housing first approach:

- Noongar people have a right to a home with cultural connections.
- Support is flexible, culturally appropriate and available.
- Choice and self-determination with no cultural compromise.
- Culturally appropriate through open and honest communication.
- Support focusing on strengthening spirit and connection.
- Social, cultural and community inclusion.
- Agency - Government to give more funding and freedom to ACHO to provide housing in a culturally appropriate manner.

3.4 Social Housing

Social Housing

In response to:

- What is the role of social housing for low-income Australians?
- What factors should state governments and housing organisations consider when allocating social housing?
- What are the key short-term and/or long-term social and economic issues in social housing?
- What changes can be made to the current social housing system to improve outcomes for tenants and/or improve the efficiency and effectiveness of the social housing sector?
- What are the most-effective wrap-around supports required to support Australians in social housing to maintain their tenancies? Are there existing effective models that could be scaled up?
- How can social housing providers better support people with complex needs (such as people with disability, people from culturally diverse backgrounds and people with mental health, alcohol and other drug issues)?

In Context

During the depression of the 1930s there was a severe housing shortage, compounded by a shortage of materials and labour¹⁰. Even so, with strong principles set out in the original Commonwealth State Housing agreements, large quantities of housing became available¹¹ showing that huge changes can be implemented with the right attitude. Social Housing was only later in its life commandeered as a bridge to the private market and home ownership. This approach is inconsistent with the experience of many Social Housing tenants, some spending a lifetime in the social housing system with some renters needing assistance to make arrangements to take over the property upon the passing of a parent/relative. The

⁹ Noongar Mia Mia, *Noongar Cultural Framework and Noongar Housing First Principles*, (Report, 2021).

¹⁰ David Hayward, *The Reluctant Landlords? A History Of Public Housing In Australia*, (1996) 14(1) *Urban Policy and Research* 11.

¹¹ *Ibid.*



slashing of funding and lack of social housing has required provision of eligibility criteria making excessive vulnerability the standard eligibility rather than conditions of priority. The original Commonwealth Housing Commission determined that the private market is unable to provide adequate housing to low-income citizens¹².

As of May 2023, 34,201 individual people were on the Western Australian social housing waitlist¹³. The average waiting time for social housing accommodation in Western Australia in the 2021-2022 financial year was 116 weeks¹⁴. 23.18% of applicants housed in this period had been on the social housing waitlist for more than 3 years¹⁵. We note that long wait times for social housing are not purely a symptom of low supply in the private rental market, but also of a chronic under-funding of social housing in Western Australia. In January 2020, the rental vacancy rate in Perth was 2.3%¹⁶, but the average waiting time for social housing accommodation at that time was still a very high 102 weeks¹⁷.

Social Housing is necessary for low-income Australians to access housing. Supply of affordable private rentals is exceptionally low in Western Australia: in September 2022, 8.1% of houses rented for \$400 per week or less, compared to 23% at the same time the previous year¹⁸. There is also growing disparity between affordability of social housing at 25-30% of an eligible tenants income and private rentals at market rates.

Social Housing presently houses persons who struggle to access alternative forms of accommodation. It follows that individuals who are unable to access or are evicted from public housing will be most at risk of homelessness. There are a multitude of issues that can impact social housing renters, consequences of which can lead to homelessness. This can range from rent calculation, below standard property maintenance and lack of support for especially vulnerable renters with complex needs.

Experiences of renters

██████████ case study

Carla (not their real name) resides in the ██████████ Western Australia. Carla is a young single mother of a ██████████ son. Carla is also an Aboriginal woman. Carla was homeless and couch surfing ██████████ when she applied for social housing with the Department of Communities in the late 2010s. After more than four years of waiting, Carla was offered social housing property in 2022. Within weeks of Carla and her son moving in, there was a huge sewerage leak at the property. The leak caused foul, untreated sewerage to flood Carla's back garden and shower.

Contractors for the Department indicated that the septic tank needed to be replaced at the property but the Department did not agree to carry out these major works. Over the next three months, Carla's rental property flooded with raw sewerage most times that she used her toilet or used her washing machine. Exhausted from requesting that the Department

¹² Ibid.

¹³ 'Social Housing' Shelter WA (Web Page) <<https://www.shelterwa.org.au/our-work/advocacy/social-housing/>>.

¹⁴ Housing Authority, Housing Authority Annual Report 2021-2022 (Report, 2022) 7.

¹⁵ Ibid 208.

¹⁶ Perth market stabilises in December' Reiwa.com (Web page, 2 January 2020) <<https://reiwa.com.au/news/perth-market-stabilises-in-december/>>.

¹⁷ Housing Authority (n 12) 7.

¹⁸ Kim Macdonald, 'Perth rental crisis: Homes on market hit record low with fewer than 10 in city under \$400 a week' The West Australian (online, 18 October 2022) <https://thewest.com.au/business/property/perth-rental-crisis-homes-on-market-hit-record-low-with-fewer-than-10-in-city-under-400-a-week-c-8572909>>.



carry out repairs and living in raw sewerage, Carla decided it was better for her and son to move out of the rental property and return the keys. Carla chose to return to homelessness after over four years of waiting for social housing, rather than continue to live in the substandard, dangerous conditions of social housing in ██████████ Western Australia.

Circle Green case study

Brenda (not their real name) was a public housing tenant. Brenda was undertaking a TAFE course that required her to undertake a period of practical work for around 6 weeks. Brenda was successful in securing a paid position for her practical work.

As a result of her period of paid work, Brenda's rent was recalculated based on her increased income. After her paid internship ended, Brenda continued to be charged rent at the increased amount, as Public Housing insisted on calculating her income based on 12 weeks of payslips, which inflexibly failed to account for the temporary nature of her increased income.

As a result, Brenda's rent became unaffordable after she returned to receiving a Centrelink benefit while studying. She subsequently accrued a large amount of rental arrears and had to enter into a payment plan to repay those arrears. She had to complete another rent assessment after 12 weeks had passed from her internship so that her rent returned to its usual level, calculated based solely on her usual Centrelink income.

Proposal

Immediate investment in and increase in number of properties

Firstly, the governments need to return to the original principle of social housing being to provide social housing to anyone considered 'low-income'. Social housing should not be thought of as a stepping stone to the private market or a waypoint on the road to home ownership. In an increasing number of cases, social housing may be the only form of housing available or attainable, though no fault of the person, merely due to the way in which the current system cannot function without a substantial number of people considered 'low-income'.

From our experience, continual failure over many decades by the state and federal governments to adequately invest in social housing in Western Australia has:

- caused poor experiences for people seeking rental housing;
- caused poor experiences for renters living in social housing; and
- contributed to rental unaffordability.

We call on the state and federal governments to urgently make significant investments in social housing in Western Australia both to increase the number and availability of housing but also to invest in existing housing. A concerted effort to increase the number and availability of social housing is necessary for not just those on low incomes but to alleviate pressures on those struggling to keep up with increases in the private market.

The National Housing and Homelessness Plan (NHHP) must expressly recognise housing is a human right, and for all States to set timely deadlines for integrating a human rights approach into social housing delivery. It follows that, the need to ensure the provision of adequate and secure housing for all persons should be prioritised over purely financial considerations.

Without grounds eviction removal



Eviction from public housing should be a measure of last resort or, ideally, not occur at all. Where termination is to occur, it must be in justifiable circumstances. Long term action should include a removal of without grounds termination provisions for Social or Community Housing tenants. If a termination is to occur to a Social Housing tenant, the department or community provider should be able to show cause for termination. This would provide tenants an opportunity to dispute and negotiate on outcomes and supporting organisations would have a better chance at keeping a tenancy on foot. Future agreements between the Commonwealth and States must prohibit the use of without grounds termination to ensure that social housing is a secure and sustainable form of tenure for the most vulnerable members of the Australian community.

Amending Policy on Succession

A number of social housing tenants will spend a lifetime in the same property. In some of those cases, there are partners or children who have come to stay in the property long term. Where the tenant dies or is sent to prison, it can be quite difficult for the remaining occupants, who are not listed tenants, to retain the tenancy or even remain long enough to find another property. The attitude towards tenancy succession as 'jumping the queue' disregards cultural consideration for Indigenous Australians. Currently, occupants of a property can apply under internal policies to 'succeed' a tenancy, but policy only indicates factors that may be considered in the decision, meaning the housing provider has discretion to reject regardless of any demonstrated factors. This type of situation has a particular impact on Aboriginal families where the tenant passes away and the rest of the family are evicted. Due to rigid policy requiring housing to be allocated according to the waitlist, the family might then be placed at the bottom of the list and wait years for housing. There needs to be an adequately amended succession policy to account for this increasingly common situation.

Support and Assistance

Social and Community Housing providers should be prepared to provide support and assistance to tenants to help them maintain their housing. These providers should initiate policy changes that require steps to negotiate with tenants before steps are taken to make an application to court. In addition, ensuring that tenants are linked with tenancy advocacy services.

Social housing providers need to devote greater resources into the community aspect of social housing. By grouping those more vulnerable or with higher support needs, might improve efficiency but with correct supports could create a sense of community. Meanwhile those individuals with what might be considered to be greater behavioural issues could be better supported in a different way and a different environment. Placing individuals with complex needs in close proximity to those with behavioural issues can lead to poor outcomes for both renters and often leads to the ending of one or more tenancies. A tiered approach from a heavy assistance need through to unassisted tenancy could be an option as to appropriate allocation and matching of housing¹⁹.

The NHHP needs to clearly set out the role of public housing in addressing homelessness, and the need for integration of services, with states to set timely deadlines for reforms to integrate service approaches. This is necessary for the NHHP to facilitate a proper integration of approaches so that public housing can shift from a property management perspective to a housing services and homelessness prevention approach.

¹⁹ Australian Housing and Urban Research Institute, Innovations in stock matching and allocations: the social housing challenge (Report, 2023).



Social Housing rent

Many social housing tenants rely on payments from Centrelink to be deducted automatically but there can be fluctuations as to how much the tenant might receive, especially if they have been working and have then had their Centrelink payment reduced causing the rental payment to fail.

There can be an inflexible application of policy where a tenant has not completed the annual rent assessment forms for reasons including, not having received the forms or not having the capability or capacity to comprehend the form. In these instances, the tenants will fall quickly into arrears with the rent being hiked up to market rent. Even a few weeks of a tenant having been arbitrarily put on to market rent, with Centrelink unable to cover the amount, can cause a tenant to be in hundreds of dollars in arrears.

Income limits are also followed strictly even if the work can be inconsistent and impermanent. In some cases, the effect of an increased income on the assessment of rent payable can disincentivise tenants from obtaining employment. Work is not just for monetary gain but has social benefits and benefits to the individual's self-esteem and self-worth. Currently, the eligibility limit for public housing in Western Australia in the metro area is \$502 per week for one person on a single income²⁰. On the other hand, the full rate of Jobseeker (Rent Assistance is not available to social housing tenants) would be about \$749.20²¹ per fortnight (\$374.60 per week). This means earning just \$127.40 (or 5 hours of casual work at minimum wage) is enough to make the person ineligible, and potentially pushing the rent from 25% of income to market rent. Under the current cost of living crisis, with almost every necessity on the rise, people are barely surviving and yet trying to earn more for whatever reason can lead to punishment.

According to the current social housing policy, tenants must declare all householder's income on a rent subsidy form, but this rarely happens either because they don't understand this requirement, or the householder only spend part of their year living there. Also related is the failure of social housing providers to ensure tenants understand their obligations, particularly the need to disclose householders on the rent subsidy.

Social housing maintenance

Renters living in social housing often report waiting extended periods for basic repairs and maintenance to be carried out, Housing Authority make up just 9% of WA rentals but according to our own statistics, make up around 27% of repair issue requests²². Where a repair begins as something small, it can become a much larger, sometimes substantial renovations requiring tenant relocation if the matter is not dealt with in the reasonable timeframes.

This reported experience also reflects a chronic underfunding of and poor management of social housing in Western Australia. In 2022, nearly 2,000 Housing Authority homes were sitting empty and in need of repair or demolition²³. These properties could be brought back

²⁰ Department of Communities, 'Housing Authority Rental Policy Manual' *Rental Policy Manual* <<https://www.wa.gov.au/system/files/2023-09/rental-policy-manual.pdf>>.

²¹ Using figures collected from the Department of Social Services, for a single person with no dependents, <https://www.servicesaustralia.gov.au/how-much-jobseeker-payment-you-can-get?context=51411> as at 5 October 2023.

²² Data from Circle Green Community Legal records.

²³ Jaqueline Lynch, Number of vacant social homes in WA rises by 25 per cent as housing crisis continues, ABC News (online, 12 August 2022) <<https://www.abc.net.au/news/2022-08-12/number-of-vacant-social-houses-in-wa-rises-by-25-per-cent/101323282>>.



into shape more quickly and even upgraded, fitted with insulation, air conditioning and solar power which has the potential to make an immediate impact on the housing waitlist.

Waitlist Transparency

We also submit that there needs to be better transparency surrounding waitlists and the allocation policy.

The Housing Authority previously published information on their website, showing wait periods for each region, and for each type of housing. This was incredibly useful for service providers as it meant providing realistic advice for clients about waiting periods for public housing, and also gave some insight into pressures in certain regional and remote areas. This data is no longer published and instead the public information is that the wait for public housing is around 2 years²⁴.

Aspirational Model

The Finnish Housing First model is guided by four principles. These principles could be adapted to the Australian context.

- Housing enables individuals to live independent lives and where the individual experiencing homelessness can be provided permanent accommodation, health and social issues can begin to be addressed.
- Respect for individual choice so that the individual can access treatments and services but are not forced to do so against their will, instead the focus is on reducing intoxication and harm.
- Rehabilitation and empowerment of the individual where staff interaction is about building trust and commonality which helps the individual to rehabilitate and empower themselves.
- Integration to community and society so the individual can receive help to create a home environment, a prerequisite to organising their life.

Social housing providers may need more funding to be able to provide internal support structures to help maintain tenancies. There could ideally be a first stage of supports within the social housing providers to assess issues at their root cause and make attempts to support tenants through those issues thereby maintaining the tenancy instead of the usual practice consisting of issuing warnings and notices of termination.

Affordable housing

In response to:

- How can governments encourage delivery and availability of affordable housing in the short, medium and long-term? How can governments partner with institutional investors to support more housing development (particularly affordable housing)?

In Context

²⁴ Western Australia, *Hansard*, Legislative Council, 27 May 2021, (Hon Sue Ellery) ('Public Housing Waiting List') <[https://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/1c9d0767b9356fb048258725000e6fe0/\\$FILE/C41+S1+20210527+p884c-886a.pdf](https://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/1c9d0767b9356fb048258725000e6fe0/$FILE/C41+S1+20210527+p884c-886a.pdf)>.



There is an issue unfolding due to the winding up of the National Rental Affordability Scheme (NRAS) announced to finish by 2026²⁵. The scheme allowed tenants to rent otherwise unaffordable homes. Even through rising rates of market rent, low-income households had been able to afford the subsidised rental amount. With NRAS winding up, many tenants are finding their rent increase unaffordable and are being forced out. We submit that in the short term, the government needs to take action to help NRAS tenants avoid a rental cliff.

Proposal

There needs to be an urgent buffer put in place to prevent those current NRAS renters from being faced with either a dramatic increase or eviction. In many instances, those NRAS renters have been managing strict budgets and are unable to afford any increase let alone sharp increase. Some sort of action needs to be taken or a temporary grant to allow more than just the without grounds notice periods to take effect.

Long term, the government may need to consider a model that provides consistent subsidy towards affordable housing while providing rent controls to curb instances of the subsidy being taken up completely by a rent increase.

3.5 Housing costs, home ownership and the private rental market in Australia

In response to:

- How can flexibility, accessibility (particularly in the physical environment), affordability and security be improved in the rental private market, particularly for low-income earners?
- Are further wrap-around supports required to support vulnerable Australians in the private rental market to maintain their tenancies? Are there any examples of effective models that could be scaled up?

In Context

In Western Australia, a landlord may give a renter on a periodic tenancy agreement a notice of termination of not less than 60 days without grounds and not less than 30 days expiring on the last day of a fixed term tenancy agreement without grounds. We refer to these processes as 'without grounds' evictions. Even the threat of termination without grounds causes undue stress and where renters do not have any footing to negotiate, it has potentially contributed to skyrocketing rents.

Western Australia (in particular) requires legislation to be put in place to protect those who are not in conventional tenancy arrangements such as those boarding or lodging. There are limited rights available for these types of agreements, and from our experience, they are generally entered into by people who are financial disadvantaged or with other complexities.

²⁵ Department of Social Services, About the National Rental Affordability Scheme (NRAS), (online, 4 November 2022) <<https://www.dss.gov.au/housing-support-programs-services-housing-national-rental-affordability-scheme/about-the-national-rental-affordability-scheme-nras#:~:text=The%20Scheme%20was%20implemented%20in,to%20receive%20incentives%20as%20agreed.>>>.



Persons who are boarding or lodging are typically unable to access more secure forms of tenure, to which legislated protections would apply and are generally at the mercy of their landlord.

Recent CoreLogic data showed there was 6,153 properties available for rent in Perth around August 2023²⁶. Meanwhile InsideAirbnb data found 8,750 'whole homes' available for short term accommodation²⁷. This suggests large portions of housing that would otherwise be available is not in use. Combining this with recent ABS figures saying that on census night almost 10% of dwellings were unoccupied²⁸ with figures for Western Australia indicating that was around 118,109 homes²⁹.

Rapidly rising rents are another issue that can directly lead to homelessness. A person on Jobseeker payment with the full rent assistance payment would receive around \$934.00 per fortnight³⁰. They would need to use 86% of their income to afford \$400 per week. A person would have no money left for necessities such as food, utilities and clothing let alone more modern necessities such as phone and internet access. A person in this position has extremely limited resources to secure alternate premises and afford the costs associated with relocation and is generally more likely to be at risk of homelessness or enter into an agreement with an unsustainable rent amount and fall into arrears and possibly termination.

Experiences of renters

Circle Green case study

Charlie (not their real name) was living in accommodation where they had a verbal agreement to rent a room in a property with three other people including the head tenant who was taking the rent. The head tenant had taken a disliking to Charlie, but Charlie did not know why. One day, the head tenant told Charlie that they had to leave the premises by the next day and if there were any belongings still on the premises by the afternoon, Charlie would need to collect them from the front porch.

After making an assessment of Charlies tenancy, it appeared they would likely be a lodger. In Western Australia, the Residential Tenancies Act 1987 excludes boarding and lodging arrangements. Because the parties had not discussed terms about termination, the common law says that reasonable notice is all that is required. In this case, Charlie would need to make a case to the head tenant that they needed reasonable notice but this could be as little

²⁶ Sarah Brookes, 'Perth's rental vacancies still below 1 per cent as crunch attracts east coast investors', *WA Today* (online, 8 August 2023) < <https://www.watoday.com.au/national/western-australia/perth-s-rental-crisis-eases-slightly-for-the-first-time-in-six-months-20230808-p5duq2.html>>.

²⁷ Anthony Anderson, Inside fight to fix Aussie rental crisis as Perth hits 42-year low in availability and Airbnb deflects blame, *news.com.au* (online, 26 February 2023) <<https://www.news.com.au/finance/business/travel/inside-fight-to-fix-aussie-rental-crisis-as-perth-hits-42year-low-in-availability-and-airbnb-deflects-blame/news-story/5a82bb7094be5b19072bd06f8b9b8473>>.

²⁸ Australian Bureau of Statistics, Housing: Census 2021, (webpage) < <https://www.abs.gov.au/statistics/people/housing/housing-census/latest-release>>.

²⁹ Heather McNeill, The Perth suburbs where one in every five homes sits empty, *WA Today* (online, 23 January 2023) <<https://www.watoday.com.au/national/western-australia/the-perth-suburbs-where-one-in-every-five-homes-sits-empty-20230118-p5cdik.html>>.

³⁰ As before, Using figures collected from the Department of Social Services, for a single person with no dependents, <https://www.servicessaustralia.gov.au/how-much-jobseeker-payment-you-can-get?context=51411> and <https://www.servicessaustralia.gov.au/how-much-rent-assistance-you-can-get?context=22206> as at 5 October 2023.



as a week. Charlie had no choice but to leave and without any accommodation they would have to reside in their car for the time being.

Circle Green case study

Darlene (not her real name) is 65 years old. Her rental property was falling apart. She notified her landlord about the repair issues many times, and the repairs were never completed. One day, she received an email from her real estate agent attaching a 60-day notice of termination without grounds. Darlene felt that the only reason her landlord issued this notice was because she had asked the landlord to complete repairs. She wasn't able to find somewhere to move to within the 60-day time frame and had to stay with friends before she found another rental.

Proposal

Removal of without grounds

Urgent legislative reform is needed to put a stop to unnecessary evictions in the pursuit of higher rents. Removal of without grounds termination from the Western Australian tenancy legislation will better enable tenants to secure their rights as renters without fear of reprisal, creating an environment for safer, more sustainable tenancies. Whilst amending internal policy to prevent the use of without grounds terminations in social housing would be a step forward, it does not protect those in the private market from predatory behaviours and limitless rent increase. Removal of the 'without grounds' provisions in preference of an 'on specific grounds' provision would protect renters from arbitrary eviction in pursuit of higher rent yields. Removal of the without grounds termination could lead to an improvement in the security of tenure for those renting in the private rental market.

Rent controls

Currently rent increases can take place just 6 months after the most recent increase. There has been some talk of making the rate of increase to at least 12 months but without controls on how much the rent can increase, it is likely to result in greater rent increases when the term ends or after the 12 months. This would negatively impact the renter who has to adjust to a much greater increase at short notice. The only legislative mechanism against unreasonable rent increases is for a tenant to apply to court within 30 days after receiving a notice of increase of rent for an order declaring the rent excessive. In our view, this mechanism is highly ineffective for keeping rents affordable, because it requires application to courts and even when made, the court can take into account a range of factors including local market values. Instead, legislating reasonable limits on amounts of rent increases, other than 'market rent', would also give a fairer deal to renters and improve rental affordability. That reasonable limit might be in line with wage growth or CPI.

Continued and expanded Tenant Advocacy

Further wraparound supports are required. Community legal centres around WA provide tenancy legal services to support all Western Australian renters and a high proportion of those are vulnerable Western Australians. Expanding funding could allow for a greater access to these services but also allow for greater advocacy. At the moment many services are limited in application to provide legal advice whereas those particularly vulnerable renters could benefit from a higher level of assistance and advocacy. There is an imbalance where seasoned property managers are able to represent the interests of a private landlord while a tenant without very specific special circumstances must represent themselves. This



can lead to quite unfair decisions and orders. We would submit that the consistent and expanded funding of community legal centres to provide stronger support to renters.

Other reforms

Strong legislative reform around short term accommodation in both metropolitan and regional areas to combat the use of otherwise viable rental properties as holiday accommodation.

Consumer Protection

There may need to be some investment to regulators in the tenancy space to be able to regulate more effectively. There are some bad actors, both private landlords and property managers who do not comply with tenancy legislation but with little consequence. A stronger regulator might be able to punish and deter bad actors.

3.7 The impact of climate change and disasters on housing security, sustainability and health

In response to:

- How can governments better encourage the uptake of energy efficient housing modifications and design?
- What options should be explored for improving the energy efficiency of rental properties?

In Context

Western Australia has a wide range of contrasting climates from more tropical northern climate, central desert climates to a more Mediterranean southern climate³¹. This impacts the types of issues facing renters in different regions. Western Australia has already seen average temperature increases over the last 100 years with projections of hot days above 40 degrees to go from 1.5 to 5 days per year and in Broome from 6 to 16 days per year³².

Proposal

Even without the dramatic rises in temperature due to climate change, there needs to be a framework in place to ensure homes can better withstand the Western Australian weather. Renters regularly suffer through summer heat without adequate means of cooling the property. There needs to be some investment or legislative reform to push for access to

³¹ Encyclopaedia Britannica (online at 28 September 2023) 'Climate of Western Australia'
<https://www.britannica.com/place/Western-Australia/Climate>

³² Climate Change in Australia, Western Australia's Changing Climate, (online, 14 March 2021)
<[A solid green circle, likely a logo or decorative element, positioned in the bottom left corner of the page.](https://www.climatechangeinaustralia.gov.au/en/changing-climate/state-climate-statements/western-australia/#:~:text=Australia%20combined%20values,-,Western%20Australia%20is%20already%20experiencing%20the%20impacts%20of%20climate%20change,southwest%20where%20it%20has%20declined.>.</p></div><div data-bbox=)

appropriate air conditioning, while affordability can be managed through solar energy and battery power. There is an opportunity to build using traditional materials and incorporating new technologies.

Within the National Framework for Minimum Energy Efficiency Rental Requirements there are minimum standards for rentals to improve comfort but minimise energy consumption including:

- maximising thermal efficiency,
- uptake of efficient appliances,
- renewable energy production and storage.

The National Framework for Minimum Energy Efficiency Rental Requirements provides for a phased approach for implementation, with social housing being a priority. There are three potential implementation options:

- Modelled-performance only - An assessor undertakes audit from the outset, giving a rating which is then to be improved to ensure compliance with minimum standards.
- Features to model-performance - Essential features to be provided and acted upon which can be done in stages with an assessor to assess within a specified timeframe.
- Hybrid model - The lessor could choose either approach offering a staged approach to compliance with minimum standards.

Any action towards energy efficiency will need to be backed by the removal of without grounds to ensure security for tenants who try to uphold these standards.

Conclusion

There are a number of proposals to be considered, the most important of which is a drastic increase to the number of social housing properties available. Flowing from that initial increase to properties available, there needs to be consistent investment in social housing to ensure properties are maintained and then an expansion of social housing supports to help tenants in social housing to engage with the community and address issues that lead or could lead to homelessness.

In addition, there needs to be legislative reform to residential tenancy law to remove the arbitrary without ground termination provisions alongside broader reform to short term holiday accommodation and protections for those in rental situations outside of a defined residential tenancy. In the case of both social housing and the private rental market, there has to be continued and expanded funding for community legal and other support services, in particular tenant advocacy.

Finally, a switch to Housing First model or a homelessness prevention model should be a long-term goal. There is no easy or cheap solution to this issue. Successive governments have eroded, underfunded and stood by as the social housing system has deteriorated much like the housing stock. Actual, tangible, viable change can only happen if investment is made now to provide housing.



Tenancy Network Members





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LEGAL SERVICE Inc.



SCALES
community legal centre



Regional
Alliance
West



SOUTH WEST
COMMUNITY LEGAL CENTRE INC



STREETLAW CENTRE WA INC.
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