

24 July 2020

Kingsford Legal Centre

Submission to the NSW Housing Strategy Discussion Paper

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We welcome the opportunity to make a submission to the NSW Housing Strategy Discussion Paper

Mental Health Agreement on 17 May 2019 (enclosed ).

Summary of recommendations

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We recommend that the NSW Government:

1. Extend the consultation time for the Discussion Paper and ensure that the consultation process is accessible to diverse groups of people who are affected by housing policy, including people who live in social housing;
2. Take a human rights approach to housing, which recognises housing as a human right, and identify respect for human rights as a key outcome of a NSW Housing Strategy;
3. Increase specialist homelessness services that can holistically address the needs of people experiencing homelessness to assist people to exit homelessness;
4. Amend punitive housing policies, such as the Inner City Local Allocation Strategy, to focus on support, not punishment, of people at risk of homelessness;
5. Require social housing providers to work collaboratively with NSW Health on harm minimisation strategies for drug use;
6. Allow social housing applicants to be considered for multiple allocation zones;
7. Urgently increase temporary accommodation for people experiencing homelessness with a focus on transitioning people from temporary accommodation to long term housing options;
8. Increase investment in social housing in NSW to increase the number of dwellings available to match current and future demand;

9. Increase investment in social housing to ensure that all social housing tenants

## Community feedback

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We received feedback from social housing tenants in our local community that the consultation process around the Discussion Paper was inaccessible and did not properly engage with many issues of great concern to social housing tenants in our community.<sup>3</sup>

Issues included:

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lives with COVID-19;

people have access to safe and secure housing in NSW. Recognising this as a human right would have significant benefits to the state as people are generally much more able to stay in education and employment, and participate in their communities, if they have safe, secure and affordable housing.

Ella is a single mum with two children in primary school. She works in the school office so she can pick up and drop off her children. They live in community housing. Ella likes to cook and is growing vegetables in her back yard. She shares her cooking with her elderly neighbours. On Saturdays, she and the children go to a community group and help with care packs for women and children who are homeless.

Ella says she does this because two years ago, the same community group helped her. She and the children were living in her car after she was evicted from her home and the owner wouldn't return her bond. The children had stopped going to school as she couldn't keep their uniforms clean. Ella had a lot of parking fines and couldn't pay them. A parent at the school saw her one day and helped her speak to a community worker. They found her temporary accommodation. The children went back to school. She was able to get a Work and Development Order (WDO) to pay off the fines. Ella was able to go to a course and learnt computer skills. She volunteered at the school and they gave her a job. Ella says having place to call home is the most important thing of all. When she lost hers, her life fell apart and she was scared for her children. Now she is safe and has secure housing.

A NSW Housing Strategy should demonstrate respect for all human rights, including the rights to non-discrimination and equality,<sup>6</sup> the right to health,<sup>7</sup> the right to an adequate standard of living<sup>8</sup> and the right to education.<sup>9</sup> The current shortage and standard of social housing, homelessness, discrimination in the housing market (especially for people on low incomes or social security) and μ

In the era of the COVID-19 pandemic, it is even more critical for people to have secure and safe accommodation. The pandemic has highlighted the direct impact of housing on health for individuals and the community.

Fadi, an elderly man with a vision impairment, was referred to KLC by a social worker from a local hospital. The social worker was worried that Fadi would be discharged from the hospital into homelessness. This is because Fadi had been living with his ex-partner, a public housing tenant, for over a decade as an authorised occupant but was not on the lease. When their relationship ended his ex-partner told him to leave the house even though he had nowhere else to go. Fadi had been sleeping in local parks and in the streets before going to hospital. The local Housing office was saying that Fadi would need to go through the application process from scratch before he could be considered for housing assistance. Fadi was overwhelmed by what was required, could not tackle the forms while homeless and, without an interpreter, was finding it impossible to look after his health while homeless and was not dealing with his increasing debt through public transport fines and ambulance fees.

KLC assisted Fadi by getting assistance for him to fill out his housing application forms

were homeless in 2018, giving NSW the second-highest rate of homelessness in Australia after the Northern Territory.<sup>11</sup>

People who are homeless often have complex needs, worsened by the experience of homelessness. These may include physical health, mental health, social, cultural, financial and legal needs. People who are homeless are best supported to find and keep a home when their needs are addressed holistically, rather than by siloed services.

providing housing to a person in their local community and does not recognise the high social cost of homelessness. There would be better outcomes for both people who use drugs and other social housing tenants if social housing providers worked collaboratively with NSW Health on harm minimisation strategies.

Recommendation 4: Amend punitive housing policies, such as the Inner City Local Allocation Strategy, to focus on support, not punishment, of people at risk of homelessness.

Recommendation 5: Require social housing providers to work collaboratively with NSW Health on harm minimisation strategies for drug use.

DCJ only allows social housing applicants to apply for one allocation zone at a time.<sup>13</sup> We work with many people experiencing homelessness who would be happy to accept housing in multiple zones, which would increase their chances of being allocated housing earlier. There is currently no way for a person experiencing homelessness to be considered for social housing in multiple zones, forcing people who could have housing to remain homeless for no reason.

Recommendation 6: Allow social housing applicants to be considered for multiple allocation zones.

Any effective response to homelessness requires the government to provide enough places for people to stay. This is linked to the need to build more social housing, which we address in more detail below.

Recommendation 7: Urgently increase temporary accommodation for people experiencing homelessness with a focus on transitioning people from temporary accommodation to long term housing options.

## Social housing

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16 | Experiencing





illness has deteriorated due to the mould. In our experience, little action is taken by

to inappropriate evictions by applying a punitive μWKUHH VWULNHV¶ DSSURDFK WR H tenants from public housing.<sup>17</sup>

Under the ABMP, DCJ will ask the tenant to refer themselves to a relevant support service, JLYH WKH WHQDQW D UHIHUUDO IRUP DQG μLI QHHGHG¶ KHOS WK service. This falls significantly short of addressing the varied and potentially complex needs of social housing tenants, putting tenants on a path to eviction while offering minimal support. It fails to recognise the seriousness of eviction for social housing tenants, for whom an eviction from social housing is often an eviction into homelessness. We believe there should be more emphasis on early intervention for tenants who are at risk of not maintaining a social housing tenancy as these tenants are the most at risk for long term homelessness.

Social housing providers should be model landlords in aspiration and action, and a better policy would require that social housing providers:

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

Effective intervention will require much better collaboration between social housing providers and other support services. The following case study highlights how a lack of collaboration between Housing NSW and health services contributes to inappropriate moves to evict tenants.

Wei was a long-term social housing resident with significant psychiatric illness. He lived alone with help from community-based mental health services. During his tenancy, he was hospitalised for a period of almost 6 months to receive medical treatment for a severely impacting psychiatric illness. Housing NSW sent Wei an eviction notice for not RFFXS\LQJ KLV SUHPLVHV LQ EUHDFK RI WKHLU μD

<sup>17</sup> 'HSDUWPHQW RI &RPPXQLWLHV DQG -XVWLFH 16: \*RYHUQPHQW μ\$QWLVRFLDO %H January 2020) <<https://www.facs.nsw.gov.au/housing/policies/antisocial-behaviour-management-policy>>.

It was vital that Wei be allowed to spend time in his flat before discharge from hospital as part of his re

A community coalition of more than 50 organisations has put forward a Joint Proposal, XQGHUSLQQHG E\ WKH DLP WR μEXLOG EDFN VWU<sup>23</sup> RQJHU DQG PRUI pandemic.<sup>23</sup> A key recommendation of the Joint Proposal is WKDW μDQ HQUJ\ DXGLW EH undertaken for all social housing properties to determine the appropriateness of the dwelling for an energy productivity upgrade or, alternatively, advise whether a new re- EXLOG LV<sup>24</sup> UHTXLUHG ¶

The Joint Proposal notes that μVRFLDO KRXLQJ SURSHUWLHV FRXOG LQVWDOO measures that would include (but not be limited to) reverse cycle air conditioners for heating and cooling, more efficient hot water (heat pumps), draught sealing, ceiling fans, efficient thermal EXLOGLQJ HQYHORSH O<sup>25</sup> LAKEWLSHDG WU<sup>26</sup> DU 39 ¶ passed on to the tenant.<sup>26</sup>

:H VXSSRUW WKH -RLQW 3URSRVDO¶V UHFRPPHQGDWLRQ DV LW KD energy efficiency in public housing, reduce energy costs for public housing tenants and UHGXFH 16:¶V FRQWULEXWLRQ WR FOLPDWH FKDQJH

<p>Recommendation 11: conduct an energy audit of all social housing properties to determine which properties are appropriate for an energy productivity upgrade and which should be rebuilt .</p>
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Conclusion

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A human rights approach to housing is underpinned by the principle that 0 0 1 29(ne)49(l)5(e) W\*3h-70(t) a)-7(t)

If you have any questions about this submission, please contact Emma Golledge at

[REDACTED]

Yours Faithfully

KINGSFORD LEGAL CENTRE

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17 May 2019

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By email: [catherine@leeroadconsulting.com.au](mailto:catherine@leeroadconsulting.com.au)

Dear Catherine,

#### REVIEW OF HOUSING AND MENTAL HEALTH AGREEMENT

Thank you for the invitation to participate in the review of the NSW government's Housing and Mental Health Agreement (HMA). Kingsford Legal Centre (KLC) welcomes the opportunity to make this written submission to the review.

About Kingsford Legal Centre

## Summary of recommendations

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1. Significant investment is required to:
  - a. Increase the availability and standard of social housing, including supported housing for people who experience mental illness;
  - b. Increase the provision of specialist homelessness and mental health services, including social workers, financial counsellors, mental health nurses, Aboriginal and Torres Strait Islander support workers, drug and alcohol workers and disability workers.

2. The proposed revised Housing and Mental Health Agreement should:

- a. Ensure that a 2.3.7.2.4 Housing provider (072) 10 182 459 (t) 3.3(23) T (18.35(1) 635 (1)

In KLC's experience the current Housing and Mental Health Agreement (HMHA) has little to no impact on the day to day reality for people living in applying for social housing in our area. This is the case despite there being extensive research and reporting available to government about the changes necessary to ensure stable housing and reduce homelessness for people living with mental ill health.

In recent years, FACS has introduced policies for social housing which are fundamentally incompatible with the aims and objectives stated in the HMHA. For example, the Inner City Local Allocation Strategy introduced in 2018 prevents people from applying for housing in their communities if they have certain drug convictions. This policy is likely to disproportionately impact people living with mental health difficulties and existing or past substance abuse issues. The Antisocial Behaviour Management Policy (updated in 2018) applies a "three strikes" approach to evicting tenants which also has a disproportionate impact on people living with mental health difficulties.

Another issue is lack of coordination between social housing providers and health services and a lack of engagement with local NGO partners such as KLC led to homelessness and/or significant distress for people living in social housing with mental illness as shown in the case studies below.

#### 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 social worker became aware of the housing situation but could not extend Sebastian's 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 coordinated 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.

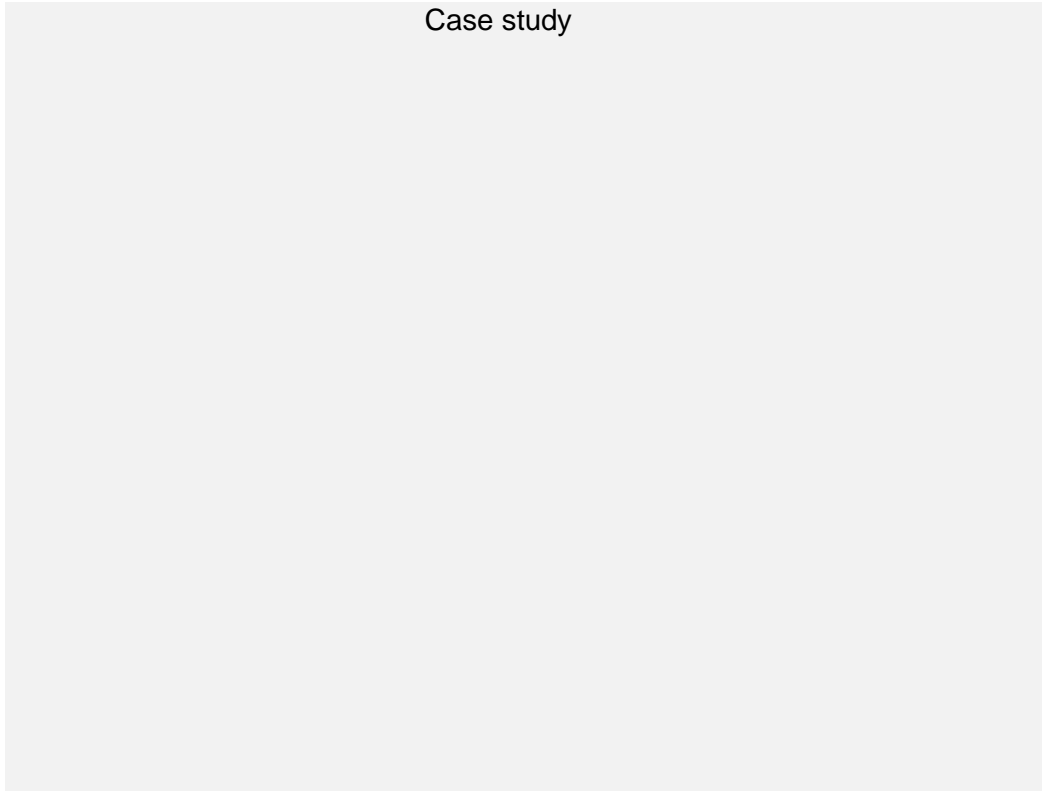
In the meantime Sebastian experienced more than a month of homelessness sleeping in parks, friends' couches or hospital, a truly appalling situation for an elderly blind man.

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<sup>1</sup> Key research is set out in the HMHA Review Background Paper.



## Case study





Standard of social housing

### Case study- Jo

Jo lived with her mother in public housing for decades. Her mother passed away, leaving Jo devastated and alone in the flat. She got by with support from neighbours who had known her for her whole life.

A significant time after her mother passed away, Jo was shocked to receive a letter advising her that the tenancy of the flat was being terminated. Until that point, Housing NSW had not realised that Jo's mother had died. Jo had realised that her name was not on the lease for the flat. Without engaging with Jo, Housing NSW issued an eviction notice.

Since the eviction notice was issued, Jo's depression has worsened and she has become suicidal. If tenancy management practices were more holistic and involved regular checks with tenants, Housing NSW would have found out about Jo's need to be on the lease and her mother dying before matters escalated. With proper support and better policies around eviction of tenants experiencing mental illness, this situation could have been avoided.

### Case Study Sen

When Sen came to KLC he was 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 and had associated difficulties with drug and alcohol use. Neighbours assaulted him in his flat.

1. The right to non-discrimination and equality –Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR) and article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provide the right to non-discrimination and equality
2. The right to health –Article 12 of ICESCR establishes the right of individuals to the highest attainable standard of physical and mental health.
3. Rights of people with disability-Under the Convention on the Rights of Persons with Disabilities (CRPD), Australia has obligations to ensure and promote the full realization of all human rights for all people with disability without discrimination<sup>8</sup>
4. Rights to protection from other forms of discrimination – Rights to be free from all forms of discrimination are also enshrined in other international instruments such as the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention relating to the Status of Refugees.

Many people experiencing mental ill health may also face discrimination and marginalisation due to the intersection of disability discrimination with other forms of discrimination on the basis of gender, race or sexual orientation and gender identity. A human rights based approach recognises the intersecting barriers facing people experiencing mental ill health and emphasises their autonomy and agency. Such an approach would also ensure that laws and policies are created with the principles of non-discrimination and equality firmly in mind, and that the process is inclusive of those who are most vulnerable.

KLC's understanding is that a human rights based and person-centred approach to mental health practice and policy would be better served by language that does not refer to 'disorders'.<sup>9</sup> The HMHA should also reflect that people often face multiple and intersecting forms of disadvantage and discrimination, and there is a need for all government services and support services to be provided in ways that are trauma informed, gender appropriate and culturally safe.

We recommend that:

1. NSW government departments including FACS and NSW Health adopt a human rights based approach when making mental health law and policy decisions including to the review and replacement of the Housing and Mental Health Agreement; and
2. The language and approach of the HMHA be reviewed and updated in consultation with people with lived experience of mental health problems.

## Conclusion

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Thank you for your consideration of our submission. If you wish to discuss anything further, please contact us at [legal@unsw.edu.au](mailto:legal@unsw.edu.au) or on (02) 9385 9566.

Yours faithfully,  
KINGSFORD LEGAL CENTRE

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