



**KINGSFORD
LEGAL CENTRE**

13 November 2014

UN Special Rapporteur on adequate housing
Office of the High Commissioner for Human Rights
Special Procedures Branch
Palais Wilson, Room 3-077
CH – 1211, Geneva 10
Switzerland

By email srhousing@ohchr.org

Dear Special Rapporteur,

Contribution to the study of the responsibilities of sub-national governments with respect to the right to adequate housing

Kingsford Legal Centre (KLC) thanks you for the opportunity to provide a contribution to the study of the responsibilities of sub-national governments with respect to the right to adequate housing.

This contribution is based on submissions KLC has prepared for various other New South Wales (NSW) government inquiries into the provision of affordable housing. We are aware that The Tenants' Union NSW, the peak non-government organisation for tenants in NSW, has submitted responses to the questionnaire on the challenges faced by States in relation to the implementation of the right to housing at a subnational level. If needed, KLC can provide further information to the study.

Kingsford Legal Centre

KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Botany Local Government areas in Sydney NSW 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.

KLC also has a specialist employment law service, a specialist discrimination law service (NSW wide) and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

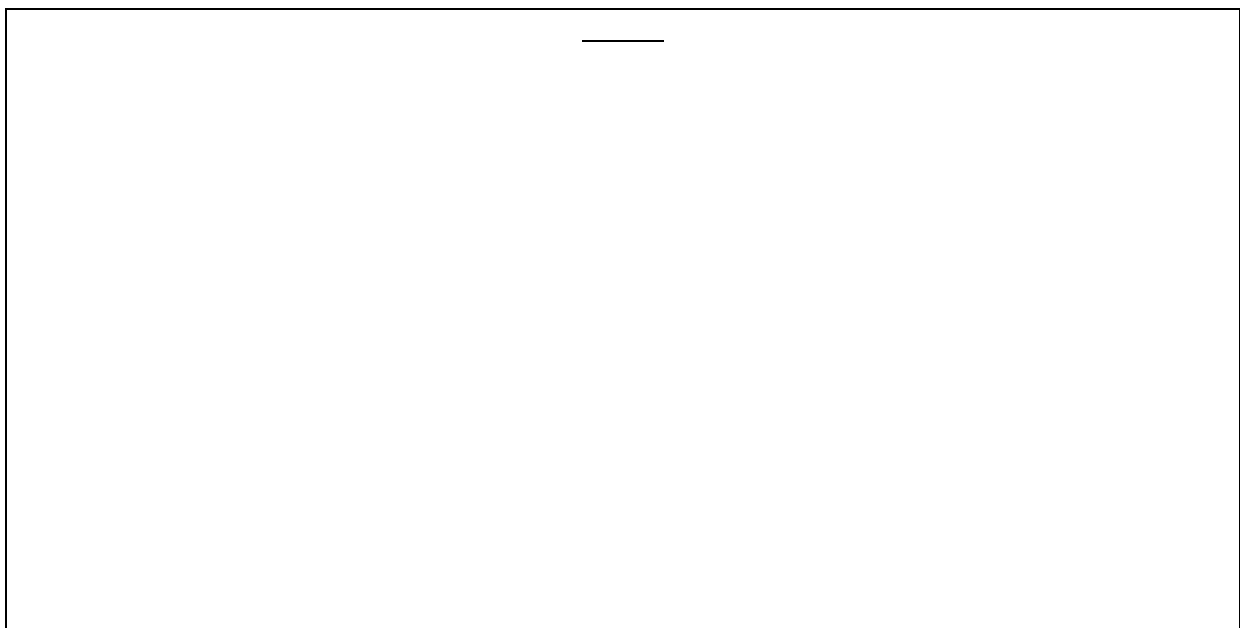
There are almost 2,000 public housing tenants living in the Randwick and Botany Local Government areas. In 2013 KLC provided 199 advices in relation to tenancy law, which was almost 11% of all advice provided (1804 advices). Of the advice provided in 2013, almost 39% of people advised rented in the private market, 18% lived in public housing, 3%

Commonwealth Government under the Commonwealth State Housing Agreement, which is the only source of funding to the public housing sector.

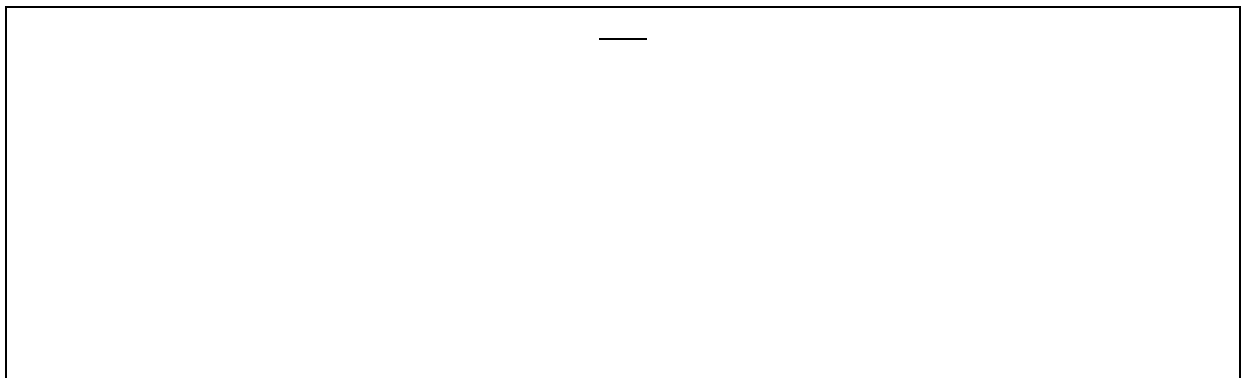
An overview of housing and homelessness

Homelessness remains a major problem in Australia. According to the 2011 Census of the Australian population, over 100,000 people were classified as homeless on Census night, a rate of 49 persons for every 10,000 persons. This represents an overall increase in homelessness of 8% from the 2006 Census. In NSW, there was an increase of 20% or more. Aboriginal and Torres Strait islanders make up 2.5% of the Australian population, yet they account for 25% of all homeless people.¹

There has been a sharp drop in the number of people who were classified as living in some form of marginal housing, but who were not classified as homeless. However, there has



It is also often difficult for victims of violence to satisfy Housing NSW that they need priority housing due to domestic violence. Housing NSW often requires excessive documentary evidence of domestic violence, such as evidence that the perpetrator has been charged with a domestic violence offence, before they will approve priority housing, even though their policy, which sets out the evidence requirements for priority housing, does not require evidence of charges or convictions.¹³ These evidentiary expectations are inconsistent with the common understand(r)-4.1(i)4.4(o) mdgeedt m(r)-4.2(s)10.6(t)-4.8(a)1.3(n(p)1.3(3(ct)-4.72.3(r)-4.94(s3



In our experience, 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 which are 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.

Enforcing landlord's rights without taking into account vulnerable tenants' needs

Liliana

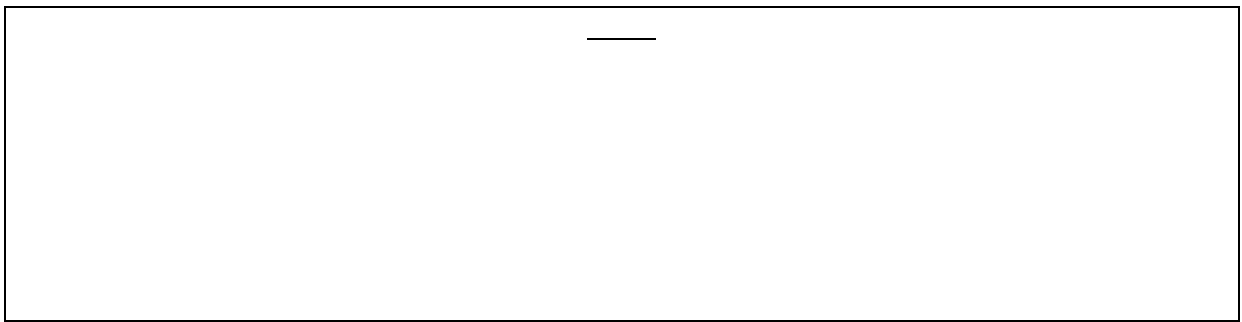
Liliana is in her late sixties and in receipt of Age Pension. Her spoken English is basic, and she cannot read or write English. She had been living in a social housing flat for over 8 years when she came to us. The lease was in her husband's name only. Her relationship with her husband was a difficult one, characterised by verbal abuse, intimidation and physical assaults, none of which she reported to the police at the time. After the last physical assault her husband left the flat, and Liliana was unsure if he was going to return. A few months later he told her he would not return, and that he would ask Housing NSW to transfer the lease to her, not realising that this was not in accordance with Housing NSW's policy. Liliana was told by Housing NSW she had a "provisional lease" to stay in the flat, and did not realise that Housing NSW would not be finding another place for her to move to at the end of the lease. She was eventually sent letters advising her that she needed to move out of the premises, and that she had no right to social housing in her own name as she had not put in a separate application. Liliana was suffering acute depression and anxiety at this time, including suicidal ideation. Housing NSW eventually applied to the Tribunal for possession of the flat.

KLC assisted Liliana in lodging an application for social housing in her own name, advocating on her behalf to secure accommodation through the Rental Subsidy Scheme and advocating on her behalf in relation to the Tribunal proceedings. We also linked her with counselling, medical and other support services.

The situation in this case study could have been avoided entirely if Housing NSW had acted earlier to address the client's need for long-term housing assistance. Her case is an example of the lack of support provided to vulnerable tenants and a deficit in the administration of public housing. It should have been clear to Housing NSW when they were advised that her husband had moved out that she was still in need of social housing. She should have been assisted to apply for social housing in her own right at that point, rather than being served with an eviction notice several months later. Instead, she was placed in a situation of extreme stress over the eviction proceedings that had a deleterious and long-term effect on her mental health.

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.



any problems with the work, or if the sub-contractor does not attend as arranged, or attends without arrangement, the tenant has to make their way along the chain of parties to try and sort out the problem.

Inadequate accountability and oversight mechanisms

We are concerned that people applying for public housing and living in public housing do not have adequate means to seek to review decisions made by Housing NSW.

Currently, people applying for public housing and living in public housing have rights to apply for an internal review of some Housing NSW decisions. If they are not satisfied with the outcome of the internal review, they may be able to appeal to the Housing Appeals Committee (HAC).

HAC can review some Housing NSW decision but does not have the power to make binding orders, it only has recommendatory powers. Housing NSW is not obliged to implement their recommendations.

As appropriate and stable housing is an essential part of life, people should have the opportunity to have decisions made by Housing NSW about their housing reviewed by a low cost, user-friendly independent body that has the power to make binding decisions.

KLC hopes this contribution assists the Special Rapporteur's on adequate housing to understand the particular challenges faced by the Australia Government in implementing the right to adequate housing. Please do not hesitate to email at legal@unsw.edu.au if you would like to discuss the content of our contribution further.

Yours faithfully,
KINGSFORD LEGAL CENTRE



Katherine Boyle