



8 April 2019

Darwin Community Legal Service Tenants Advice Service **Community Housing Regulation Review Submission**

About Darwin Community Legal Service (DCLS)

DCLS is a multi-disciplinary service consisting of a general legal service, tenants' advice service, and a seniors and disability rights service. We create awareness and empower our community, support access to services and rights, and advocate for change that promotes fairness and justice.

The Tenants Advice Service (TAS) provides information, legal advice, advocacy and community legal education services to renters throughout the Northern Territory. The TAS assists people who pay rent to live in a home in the Northern Territory including private residential tenants, boarders and lodgers, caravan park residents, supported accommodation tenants, Territory Housing tenants (and prospective tenants), social housing tenants and town camp residents. Our specialised work in tenancy law means DCLS has a unique perspective and understanding of the broad problems facing housing and accommodation across the Northern Territory ('NT').

Northern Territory Context

Affordable housing is a major problem throughout Australia. The Northern Territory's rate of homelessness is a staggering 12 times the national average.¹ The Northern Territory also has a high level of disadvantage and a sparsely dispersed population with limited access to services. The lack of adequate housing is identified as a fundamental social determinant that impacts on education, health, employment and social cohesion.

Access to the private rental market is a major issue with a recent report by the Northern Territory Council of Social Security (NTCOSS) finding that there was not one single private rental property available in the NT that would be affordable for any household on income support payments.² With an average public housing waitlist in urban centres of 6-8 years and challenges in funding sufficient and adequate housing to meet need community housing providers ('CHP') have a significant role to play in providing for NT's homeless population.³

The current regulation of CHPs in the Territory is far from ideal. Most CHPs are not held to the same standards as other housing options as they fall within the exclusion under the *Residential Tenancies Act* ('the Act') as housing provided for charitable purposes. The majority of tenants within CHPs therefore have no rights in respect to repairs, rent and eviction outside basic contract

¹ Australian Institute of Health and Welfare, Specialist Homelessness Services Annual Report 2017-2018.

² NTCOSS Cost of Living Report - Issue No. 20 (Part 2) July 2018.

³ <https://nt.gov.au/property/public-housing/apply-for-housing/apply-for-public-housing/waiting-list>



protection. While some CHPs operate well and provide excellent services to those in need, unfortunately our experience is that far more operate in a way that is detrimental to tenants. Due to lack of regulation and under-supply of housing there is little recourse against unfair or unsavoury practices by CHPs.

Case Studies

1. Bernard Street Units

Late last year, the Department of Local Government, Housing and Community Development ('Department') planned to transfer the management of 39 units to St Vincent de Paul Society ('St Vincents'). Whilst none of the tenants were being evicted during this transition, all had their tenancy agreements with the Department terminated and new agreements written with St Vincents. The primary concern with the transfer was that the tenants would lose all their rights under the Act as St Vincents, as a charitable organisation, is exempt from its obligations.

Had it not been for the lobbying from a number of community legal service providers, the 39 tenants of the Bernard Street units would not have had housing security and certainty in the standard of housing as St Vincents would not have been held to the same level of accountability and responsibility that is expected in public housing and the private sector.

2. Aboriginal Hostels

X is an Aboriginal man who lives in an Aboriginal Hostel in Katherine. Aboriginal Hostel accommodation is also not subject to the Act. X had been living there for 6 months. He pays \$300 a week for a one-bedroom unit that has a shared toilet and communal shower. X is on the waitlist for public housing and is unable to enter the private rental market as local real estate agents will not consider his application due to lack of references. X's peace and quiet enjoyment of the property is constantly interrupted by activity of the owners and other residents. When he brings it up as an issue with the owners, their response is that he can leave. The owners have recently said the rent is going up. When X complained, the response was again "if you don't like it, leave." X has no other options for housing but is also unable to assert any rights to fair treatment.

Response consultation questions

This submission addresses the consultation questions that are of relevance to the NT and of which DCLS has direct experience. As many of the issues and responses overlap, rather than restating our contention we have provided a summary of our answers. This submission primarily relates to questions 1, 2, 8, 11, 13 and 20.

Strong standards with the NRSCH playing an active role in regulation and enforcement

Currently the experience in the NT is that tenants who are having difficulties with CHPs have no independent body or organisation to resolve disputes or enforce rights. DCLS sees a great need for this role for reasons previously discussed. We strongly recommend that the NRSCH take on the role of investigating complaints made against CHPs that act in a manner contrary to the fair treatment of tenants.

The current regulatory and enforcement framework experienced in the NT of the community housing sector is severely lacking. Our experience working with clients in the sector has been incredibly difficult, with many providers acting in erratic, extortionist and often contradictory ways. Tenants in community housing are often extremely vulnerable and should be entitled to safe, affordable and secure housing.

DCLS endorses Tenants Victoria submission that NRSCH should require registered CHPs to:

- maintain tenancy wherever possible and treat eviction into homelessness as an option of last resort; and
- regularly report on the performance of the CHP including tenancy turnovers, reasons for turnover, average rent prices, number of current vacancies, complaints made per month, and maintenance requests and completion dates of those requests.

At the NT level, DCLS proposes that the NT Housing Registrar plays an active role in the sector, including surveying the experience of tenants to ensure management practices are appropriate and tenants are being treated with fairness and equity.

DCLS endorses the Tenants Victoria submission that, while the NRSCH enforcement powers may be sufficient, the execution of those powers is lacking. DCLS is not aware of any matters within the NT where the NRSCH has taken an active role in bringing a non-compliant CHP into line. Lack of consequences or any real reporting standards means best practice guidelines are easily ignored.

We submit that a stronger, regular and random inspection enforcement cycle is more likely to improve compliance and improve outcomes in providing social housing.

Consistency Across All Community Housing Providers

To instil confidence in the community housing sector, all CHPs, regardless of size or type, should be held to the same standards of regulation and service provision. Without proper regulation there is nothing to dissuade smaller CHPs from acting in ways detrimental to vulnerable and homeless Territorians.

Strong regulation of CHPs, both small and large, ATSI based and otherwise, profit or not-for profit would help reduce exploitative behaviour and ensure that all CHPs across the Territory are appropriately serving the community.

Conclusion

DCLS supports regulation in the CHP space. We also support the submissions made by our National Association of Tenants Organisations' colleagues, particularly Tenants Union of New South Wales and Tenants Victoria and who, due to the size of their jurisdiction, are exposed to more CHP organisations.

Many tenants and prospective tenants in the Northern Territory within this space are high needs and vulnerable. The greater the security and support in the provision of a home, the better the life outcomes.