

About the Tenants' Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 35,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Renters Organisations (NARO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

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The Tenants' Union of NSW' office is located on the unceded land of the Gadigal of the Eora Nation.

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About this submission

Everyone deserves a home. Housing is the basis from which we ensure our communities' well-being. This is not simply about the material, physical and structural protections housing provides, but also a sense of home and belonging within a wider community. People require not just basic shelter but a good home to live a safe, healthy and dignified life. It is well accepted that improving housing outcomes leads to improvements in health and well being.

The existence of homelessness is a failure of the housing system and proof of the limits of market-based housing in ensuring good mental health and wellbeing in our community. We need to implement a system within which all people have access to safe, stable and affordable homes and communities.

Our submission is informed by ours and the Tenants Advice and Advocacy Services practical experience assisting more than 10,000 renters living in public, community and affordable housing each year and the reported experiences of those renters and those who we engage with outside legal advice.

Our focus is on reforming laws, policies and practice in the housing system to ensure they are supporting renters to access and sustain safe, stable and affordable homes. Currently they are not adequately supporting renters in the private rental and social housing systems to sustain their tenancies which impacts mental health and wellbeing in our communities.

Recommendations

Recommendation 1:

Redesign tenancy laws in NSW to enable renters to access longer leases while still retaining the freedom to relocate

Recommendation 2:

Allow the Tribunal in termination applications to refuse the order considering the circumstances of the case, the relative hardship of the parties and where a tenant is Aboriginal, the tenants cultural connection to country.

Recommendation 3

That the NSW Government should consider and develop an appropriate hardship framework for renters who experience unexpected financial hardship impacting their ability to pay their rent

Recommendation 4

That the NSW Government develop requirements for private landlords, real estate agents and the NSW Civil and Administrative Tribunal require use of the hardship framework before moving to eviction.

Recommendation 5

As service providers to the poorest and most vulnerable people in the community, social housing providers should prioritise financial inclusion and offer a comprehensive suite of debt-relief options to tenants. NCAT listing should not be used as the default strategy for managing arrears or speeding-up debt-recovery processes.

Recommendation 6

Introduce clear policy and practice for social housing landlords regarding sustaining tenancies which uses the Tribunal as a last resort.

Recommendation 7

Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings.

Recommendation 8

Make clear the process pathway for addressing breach before a notice of termination can be served.

Recommendation 9

Review Part 7, and other relevant parts, of the Residential Tenancies Act that target anti-social behaviour in social housing tenancies.

Recommendation 10

Define eviction as the use of process - from service of a notice of termination

Recommendation 11

Abolish fixed term tenancies and eligibility reviews for existing tenants across social housing providers.

Recommendation 12

Review of rent setting policy and practise for all non-market housing properties and consideration of the residual affordability methods to ensure that social housing is genuinely affordable.

Recommendation 13

Implement a rent cap of 3% in NSW tenancy law for the private rental market

Recommendation 14

That the NSW Government adequately resources free, independent legal advice and advocacy services for renters.

Recommendation 15

That assessment of adequacy of resourcing takes into account the additional funding required for effective and appropriate provision of information, advice and advocacy supports for Aboriginal and Torres Strait Islander renters, renters from culturally and linguistically diverse communities, and renters with a disability.

Recommendation 16

That the NSW Government adequately resource the Tenants' Union of NSW to ensure renters have a voice and peak body able to represent their interests in discussion of housing and homelessness policy.

Recommendation 17

NSW Government to set a target of social housing properties to account for 10% of all housing stock by 2036.

What could improve mental health and wellbeing across our communities?

Longer tenures and sustaining tenancies

Access to safe, stable and affordable housing is a key component of improving mental health and wellbeing across our communities.

Research examining the mental health and wellbeing of renters found that housing insecurity has an impact on a renter's mental health. The study was undertaken over 20 years and found that a renter needs to live in a home for 5- 6 years to have the same mental health stability as that of an owner -occupier. Prior to the 5-6 year mark renters have poorer mental health outcomes than owner-occupiers. ¹

In NSW the average tenure for renters is currently less than 2 years which highlights that our current housing system is not fit for purpose in ensuring good mental health and wellbeing for renters in our community.

Length of tenure (NSW)

As measured by length of time bonds held in the Rental Bond Board.



Bonds may be lodged and released on a different time than the tenancy itself. As the majority of bonds are lodged before the tenancy begins, but released after it ends, we consider this effect to slightly inflate length of tenancy measurements.

Chart: TUNSW • Source: NSW Fair Trading • Created with Datawrapper

Longer tenures are an achievable target and will require designing our tenancy system in NSW to enable people to access longer leases and greater housing security while retaining the freedom to relocate – for work, safety, or life circumstances – without being

¹ Ang Li, E Baker and R Bentley, (2022) Understanding the mental health effects of instability in the private rental sector: A longitudinal analysis of a national cohort <https://www.sciencedirect.com/science/article/abs/pii/S0277953622000818?via%3Dihub> (accessed 28 August 2025)

locked into unsuitable or poorly maintained housing.

Short tenures place an unfair burden on individual renters and directly impact their mental health and wellbeing. Focus must be on reforming our housing policy and laws to ensure they promote stability and security of tenure for renters.

The end of no grounds termination in NSW has been a long awaited important step in improving security of tenure for renters. The new prescribed grounds for termination are important but they are not the end of the reforms that are needed to improve housing security.

As an initial step, there needs to be legislative reform to allow the Tribunal, when hearing applications for termination (on whatever grounds), to refuse to order eviction considering the circumstances of the case, the relative hardship of the parties and, where a tenant is Aboriginal, the tenants cultural connection to country.

Recommendation

Redesign tenancy laws in NSW to enable renters to access longer leases while still retaining the freedom to relocate.

Allow the Tribunal in termination applications to refuse the order considering the circumstances of the case, the relative hardship of the parties and where a tenant is Aboriginal, the tenants cultural connection to country.

Implement a hardship framework for renters

Another important aspect of sustaining tenancies is providing provisions to assist private renters who are experiencing hardship. Currently this is missing from NSW tenancy laws and when a tenant does experience hardship the landlord can seek termination of their tenancy. This is at a time when they are most vulnerable and an eviction from their home will impact their mental health and wellbeing.

Consideration should be given to a range of strategies to prevent unnecessary evictions that heighten the risk and cost of homelessness. This can include both support to sustain tenancies, and the introduction of a requirement for landlords to enter into rent reduction negotiations where a renter can demonstrate they are experiencing financial hardship as a result of a change in circumstances. These actions will help renters to maintain their tenancies and prevent homelessness.² We refer to our 2022 report, *Evictions, hardship and*

² Tenants' Union of NSW (2022) *Evictions, hardship and the housing crisis*. Accessed at

the housing crisis for further consideration and briefly expand below.

Hardship provisions exist for financial institutions such as credit providers, telecommunications companies and energy companies. They are governed by Codes of Practice that set out obligations and frameworks for those institutions to discuss and negotiate 'hardship arrangements' where a consumer can demonstrate they are experiencing financial hardship. These arrangements can include periods of reduced payments, and in some cases partial or total debt waivers. These measures are not only intended to provide relief for the benefit of the consumer in hardship, but also support the continued relationship between the institution and the consumer. If a consumer defaults on a loan, is under severe financial stress, and will likely never be able to pay back a debt, both the consumer and the financial institution suffer. If a consumer is given appropriate leeway and support to get back on their feet, they will likely remain a customer of that financial institution.

We understand there are significant differences between large financial institutions and individual landlords – particularly those with just one or two investment properties. Nevertheless, it is unfair that a person who owns a house and is paying off a mortgage is able to access a significantly stronger financial hardship framework through their credit provider than does a person renting their house. Banks, telecommunications companies and energy companies easily weather losses in the hundreds or thousands if a consumer is in financial hardship, especially where this means an ongoing, financially beneficial relationship with that consumer. Some landlords are less able to weather that type of loss. This should not mean however, that hardship frameworks are not made available to renters in financial hardship. Instead consideration should also be given regarding how to support landlords for whom compliance with a hardship framework would in turn lead to financial hardship.

Recommendations

That the NSW Government should consider and develop an appropriate hardship framework for renters who experience unexpected financial hardship impacting their ability to pay their rent

That the NSW Government develop requirements for private landlords, real estate agents and the NSW Civil and Administrative Tribunal require use of the hardship framework before moving to eviction.

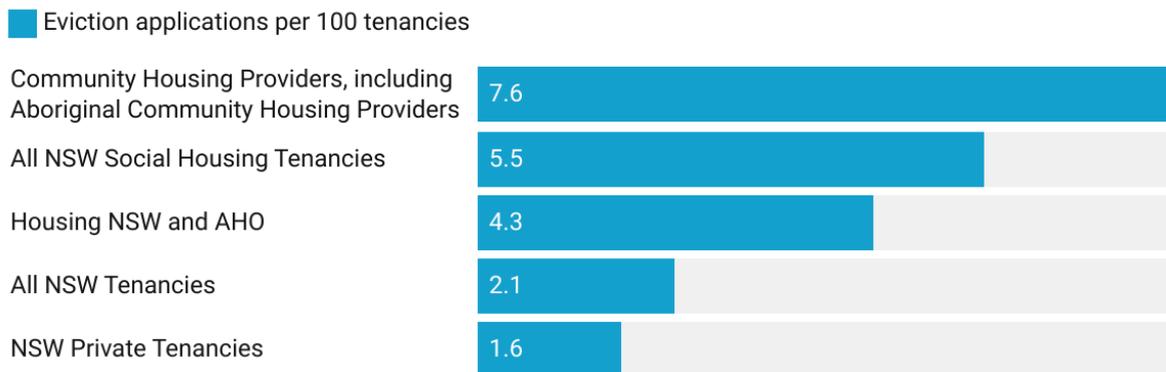
Reduce use of Tribunal process as behaviour control for social housing rent arrears

A focus on sustaining tenancies will require a change in approach away from using the

<https://www.tenants.org.au/reports/hardship> 13th February 2025

Tribunal process as a tenancy management tool. Too often we see eviction being used as a mechanism of control – this is not a foundation for an empowering relationship and it is not conducive with person-centred or trauma-informed approaches. The UK experience during COVID under the eviction moratorium shows that it is possible to find different ways of relating to tenants.³ There has been significant discussion amongst Welsh housing providers with impressive results⁴. In 2020, after several years of an improved process Wales & West Housing was reported as managing 12,500 homes but serving only “around 20 notices seeking possession a year.” This translates to a rate of 0.0016 notices served per 100 tenancies.⁵

In NSW, social housing providers apply to the Tribunal to evict at a significantly higher rate compared to private landlords. Public housing tenants are taken to the Tribunal for termination matters twice as often as those in private rentals, while community housing tenants face eviction proceedings nearly 5 times more frequently. Around 80% of eviction applications by community housing providers are for non-payment of rent.



Eviction application data from the NSW Civil and Administrative Tribunal (NCAT) for the 2023 financial year.

Community Housing Providers have previously explained this higher rate on the basis they are not necessarily seeking to evict renters in arrears but to engage them in negotiations to establish a repayment plan and formalise those discussions. This appears to be as a result of financial considerations including contractual pressure to maintain high rates of rent collection rather than sustaining tenancies, poorly calibrated rent setting policies, and provider borrowing and capital expenses increasing pressure on limited revenues.

Initiating eviction proceedings, seen as a way to formalise and ‘rubber stamp’ payment

³ Mark Jordan, (2020) *Covid-19 and the Growing Threat of Evictions in the UK*, Human Rights Watch, <https://www.housingrightswatch.org/content/covid-19-and-growing-threat-evictions-uk> (accessed 29 August 2025)

⁴ Bevan, Paul (2021) *Working together to end homelessness from social housing*, Shelter Cymru https://sheltercymru.org.uk/wp-content/uploads/2021/03/Working-together-to-end-homelessness-from-social-housing_Report-1.pdf (accessed 29 August 2025)

⁵ McCabe, Jessica (2020) *How to end evictions in social housing*, Inside Housing, <https://www.insidehousing.co.uk/insight/how-to-end-evictions-from-social-housing-64836> (accessed 29 August 2025)

plan agreements by providers, is often experienced by the renter as a genuine threat to their housing. It can lead to anxiety, making some tenants unable or unwilling to engage with the Tribunal or address the application. Some might just choose to leave once an eviction notice is issued, which significantly impacts their housing situation into the future and impacts on their mental health and wellbeing.

More work is needed in developing consistent tenancy management best practices to work towards no evictions or as a starting point no evictions into homelessness. There should be a commitment to attempting alternative dispute resolution methods before applying to the Tribunal.

Social housing tenants should be offered a variety of debt relief options by their landlord. The use of eviction as behaviour control and over emphasis on rent collection, particularly in social housing, is not a trauma informed response. Prioritising financial inclusion should be the focus.

If use of the Tribunal is to continue for eviction matters then funding must be provided to Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings. This funding will ensure that social housing tenants receive advice and are supported through the Tribunal process. This will assist in reducing the number of completed exits and therefore sustaining tenancies and lead to better outcomes for renters mental health and well being.

Previous research undertaken by the Tenants' Union has demonstrated the significant impact when advocates are available to support renters including improved success at the conciliation stage, and prevention of eviction. Our findings indicated that where support was provided by an advocate at Tribunal in the period 2023/2024:

- **Conciliation Success:** Advocates resolved 50% of cases they supported at the conciliation stage, avoiding the need for a full hearing.
- **Eviction Prevention:** Advocates prevented eviction or homelessness in 55% of eviction cases, which made up 40% of their caseload. For Aboriginal or Torres Strait Islander clients, eviction was prevented in 65% of cases.
- **Duty Advocacy:** In 45% of cases, advocates provided duty advocacy without prior client interaction. Despite the complexity and higher conflict (e.g., 50% were eviction cases), advocates resolved 40% of these at conciliation.

Recommendations

As service providers to the poorest and most vulnerable people in the community, social housing providers should prioritise financial inclusion and offer a comprehensive suite of debt-relief options to tenants. NCAT listing should not be used as the default strategy for managing arrears or speeding-up debt-recovery processes.

Introduce clear policy and practice for social housing landlords regarding sustaining tenancies which uses the Tribunal as a last resort.

Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings.

Review social housing policies and legislation to ensure they consistent with the principles of sustaining tenancies

There needs to be a thorough review of social housing policies and legislation that currently are undermining the system's ability to prioritise stability and security for renters.

The NSW Audit Office recent review of the social housing sector assessed whether social housing is effectively and efficiently prioritised to meet the needs of vulnerable households, and whether social housing tenants are effectively supported to establish and sustain their tenancies. The audit came to the conclusion that social housing tenants do not consistently receive effective support to help them establish a successful tenancy or sustain that tenancy if issues arise. It also found that applying for social housing is an inefficient and inequitable process.⁶

An example of a policy that has an impact on mental health and wellbeing is the HomesNSW local allocation strategy adopted in Redfern in 2018 which does not allow any person who has had a drug conviction in the past five years to be provided with housing in the Inner Sydney estates. This leaves many people either at risk of homelessness or placed in alternative housing separated from family, community and other supports. This in turn leaves the person vulnerable to their mental health and/or substance use conditions worsening.

A wider definition of eviction must be adopted into social housing policy that does not just account for cases where there has been enforcement of vacant possession orders from the NSW Civil and Administrative Tribunal. There is an eviction process in NSW that begins from the moment a notice of termination is served on a tenant. The serving of the notice may in itself lead to a tenant believing they have no choice but to vacate their home. Or it may be when the tenant receives notice from NSW Civil and Administrative Tribunal that they feel they have no choice but to vacate their home. Fear of courts and tribunals can mean that tenants are worried they will get into trouble if they don't move out before a Tribunal hearing. Currently both of these scenarios that result in a tenant

⁶ Audit Office of NSW, 2025, Social housing: Performance audit <https://www.audit.nsw.gov.au/our-work/reports/social-housing> (accessed 26 August 2025)

feeling they have no choice but to leave their home would not be included in social housing landlords definition of tenancies that have ended as a result of an eviction.

The definition used by social housing providers for accounting for evictions must acknowledge that eviction is a process and it begins when a notice of termination has been served. There needs to be a process pathway established that requires implementing a range of other measures and supports to address breaches before an eviction process can be commenced. Preserving social housing tenancies must be the focus. Each step in the process pathway must be complied with before sign off on the eviction process.

Many evictions from social housing are unduly harsh, unjust, and can lead to homelessness. The NSW Government has stated in their No Exits from Government Services into Homelessness Framework 2020 a vision that no person exits from a government service into homelessness, and that people with complex needs and risk factors – including mental health, substance abuse, criminal history or currently unresolved criminal issues – should be accounted for and supported to avoid homelessness. However, in practice, NSW Government policy contradicts this principle. Many people are unjustly evicted from social housing into situations where they are at great risk of homelessness which ultimately impacts on their mental health and wellbeing.

Better support for social housing tenants who are living with mental health issues is urgently needed to assist those tenants to sustain their tenancies. Currently social housing landlords have limited tools to implement when there are behaviours that can impact neighbours. For example tenants who play loud music due to intrusive thoughts. Social housing tenants in our experience are not always adequately supported to sustain their tenancies in these situations and there is limited support provided for tenants to avoid these matters escalating to eviction.

In October 2015, NSW Parliament passed the *Residential Tenancies and Housing Legislation Amendments (Public Housing–Antisocial Behaviour) Act 2015*. The resulting changes, including section 154D (mandatory terminations) and 154G (orders for possession), have been in operation since February 2016. Section 154D introduced mandatory eviction where a social housing landlord is evicting a tenant on the basis of illegal use of the property (section 91) or serious damage to property or injury to a neighbour or the landlord (section 90). Very limited exceptions to the mandatory eviction provision exist for especially vulnerable tenants, and tenants with children who face hardship if evicted. The introduction of this provision effectively removed much of the discretion of the Tribunal not to terminate a tenancy where to do so would result in an unjust outcome. Previously the Tribunal had been required to consider whether the breach was sufficient to justify termination, and had much wider discretion in all cases to consider hardship and other circumstances of the case before making an order for termination.

Eviction is a blunt and harsh measure where additional support would often be a more appropriate response. Many cases involving noise or nuisance, damage to a property, injury to the landlord or agent, or illegal use, are inextricably tied together with complex

mental health conditions and substance use disorders, which are only exacerbated if the person is made homeless.

Evictions from social housing due to a breach not only puts a person at immediate heightened risk for homelessness, but can also impact that person's ability to access social housing long into the future – through making the tenant ineligible permanently, or making them wait for a period of time before being allowed back onto the waitlist. It is unclear what these people are expected to do in the meantime, particularly where a breach has been linked to substance use or mental health conditions.

We recognise the disproportionate impact of antisocial behaviour policies for Aboriginal tenants of public housing. Almost a third of all ASB allegations made have been registered against Aboriginal tenants, while Aboriginal households make up only around 7.6% of public housing tenancies. In the experience of TAASs who have provided support for Aboriginal tenants challenging allegations, there is often an element of racial discrimination or targeting involved with the allegations made. Many of these cases in which assistance has been provided have involved women and children.

The policy of fixed term tenancies and ongoing review of eligibility for existing tenants must be discontinued across all social housing providers. Many studies have shown that the security of tenure that would be achieved through provision of continuous tenure - previously NSW policy until 1 July 2005 - is the most important factor contributing to long term positive outcomes for social housing tenants.⁷ This would result in a higher number of waged tenants, higher rent income for social housing providers, and an effective cross subsidisation across the system. The removal of fixed term tenancies and ongoing review of eligibility for existing tenancy must apply across all sectors otherwise CHP tenants will be worse off. An appropriate guiding principle is once someone becomes eligible for social housing they are not required to meet eligibility criteria at any time during their tenancy. This would enable the vision of a stable home to be realised and ultimately led to more stable mental health for renters in social housing.

⁷ Michael Darcy, Hazel Blunden (2014) Determining the Financial Barriers moving from Welfare to Work. Sydney: University of Western Sydney and Pacific Link Housing Ltd.
<https://www.pacificlink.org.au/sites/default/files/research1determiningfinancialbarrierstoworkfull.pdf>, accessed 10 December 2024

Recommendations

Make clear the process pathway for addressing breach before a notice of termination can be served.

Review Part 7, and other relevant parts, of the Residential Tenancies Act that target anti-social behaviour in social housing tenancies.

Define eviction as the use of process - from service of a notice of termination

Abolish fixed term tenancies and eligibility reviews for existing tenants across social housing providers.

Rent setting and caps

Housing affordability is a key factor in the ability of a renter to sustain their tenancy and also meet other essential needs which positively impact on stable mental health and wellbeing.

Many social housing tenants find it challenging to afford essential living expenses after paying their rent. At times, they must make difficult choices, like skipping meals, forgoing medication or medical appointments, or missing out on basic necessities because they don't have enough money left after covering rent. These decisions directly impact on mental health and wellbeing

The current common measure of housing affordability used is the 30/40 rule, which defines 'housing stress' or unaffordability as where a household in the bottom two quintiles of income distribution pays more than 30% of their income in housing costs.

While the 30/40 rule is relatively simple to understand, it is nonetheless inadequate in capturing the problem of affordability for some households, particularly for those on low and very low-incomes. As an example of its inadequacy, while renters of public housing would not be considered in housing stress according to the 30/40 rule because none pay more than 30% of their income on rent, more than two thirds are unable to meet basic living standards after housing costs and are living in poverty.⁸ A better approach to housing affordability is outlined by Stone, Burke and Ralston in their 2011 AHURI research on *The Residual Income Approach to Housing Affordability*. As they explain, affordability is a relationship between housing and people: "for some people, all housing is affordable, no matter how expensive; for others, no housing is affordable unless it is free".

⁸ The 30/40 rule sets out that a household is in housing stress when it is in the bottom 40% of Australia's income distribution and is paying more than 30% of its income on housing costs. The estimation of 2/3 of social housing renters not being able to afford basic necessities is based on an assessment of housing affordability using the residual income. See Burke, T., Stone, M. and Ralston, L. (2011) *The residual income method: a new lens on housing affordability and market behaviour*, AHURI Final Report No. 176, ahuri.edu.au/research/final-reports/176, accessed 13 December 2024

The 30/40 rule is also commonly used by social housing providers when negotiating rent arrears repayments agreements. Our experience is that many social housing providers will only agree to repayment amounts that result in a household paying 30% of their income in rent. This fails to take into account that for many people the 25% of income was too high, that is why they are in rent arrears at all. Deepening the pressure on the household budget is a risky approach that forces compromise in other areas of life including health.

A better model to adopt is the residual affordability method for assessing affordability. Residual income methods calculate for different households how much is left over for housing costs after relevant expenditure as measured by a budget standard⁹ is considered. Where a household does not have enough money left over to cover their basic expenses after paying for housing, the household is considered to have an affordability problem.

During COVID-19 NSW government ensured that the Coronavirus Supplement was not classified as assessable income under either the public housing or community housing rent policies. This meant that households in receipt of the Supplement had an effective rent of as low as 12.5% of household income, or as Pawson et al. put it, the Supplement was an effective 130% boost to income¹⁰. The result was a marked decrease in rent arrears and a generally higher capacity to meet the needs of the household, without a reduction in the housing provider's income which was reported at generally less than 3%¹¹ despite the financial shocks of COVID-19.

We recommend a review of rent setting policy and practice for public, community and affordable housing as 25%-30% of total income spent on rent is not affordable housing. All non-market housing should be set at a level which does not further impoverish the people it is attempting to support. Merely being comparatively less harsh than the private sector is not sufficient.

Such a review should be undertaken with a view to ensuring social and affordable housing is a genuinely affordable housing option, that leaves people enough money each week to live a decent life which will support their mental health and wellbeing.

We recommend that the rent setting model attempts to set rent at a level for the household, ensuring they can afford other essentials.

⁹ For Australian households, the indicative budget standards generally referenced are those developed by the Social Policy Research Centre at the University of New South Wales. Peter Saunders, Megan Bedford (2017) [New Minimum Income for Healthy Living Budget Standards for Low Paid and Unemployed Australians](#), Social Policy Research Centre, UNSW 2017

¹⁰ Pawson, H., Martin, C., Sisson, A., Thompson, S., Fitzpatrick, S. and Marsh, A. (2021) 'COVID-19: Rental housing and homelessness impacts – an initial analysis'; ACOSS/UNSW Poverty and Inequality Partnership Report No. 7, Sydney

¹¹ NHFIC (2020) *Australia's affordable and social housing sector: A resilient response to COVID-19* <https://www.nhfic.gov.au/media/1414/australias-socialand-affordable-housing-sector-28-october-2020.pdf>

If a set percentage is still preferred, we recommend a reduction in the base rent to at least 20%, with the insertion of a cap on market rent of 80% calculated similarly to the Affordable Housing Guidelines.

Many renters in the private rental system are also finding it tough at the moment with the rate of rent increases far exceeding income growth and increases in social security payments. The private rental market is not affordable for very low and low and increasing medium income households. We know that many medium income renters are paying well over 30% of their income in rent and low income renters are paying over 50%.

For renters already experiencing disadvantage then they are being put under additional pressure and are making really difficult decisions between rent, energy bills, medicine and food. This pressure has implications for mental health and wellbeing.

In NSW there is no cap on the amount rent can increase. The only restriction is it can only increase once every 12 months. Unregulated increases are not seen as acceptable in other essential services and should not be in private market renting.

Current rent increase laws in NSW encourage an approach where rents can be increased based on renter's desperation for a roof over their head. It is up to a renter to make an application at the Tribunal if they wish to challenge a rent increase as excessive.

In the ACT there are rent caps and landlords are limited to increases using a formula capped to CPI. If the landlord wants to increase above this formula then the onus is on them to establish a case at the Tribunal.

Rent caps in NSW would provide better protection for renters and enable them to sustain their tenancies and support their mental health and wellbeing.

Recommendations

Review of rent setting policy and practise for all non-market housing properties and consideration of the residual affordability methods to ensure that social housing is genuinely affordable.

Implement a rent cap of 3% in NSW tenancy law for the private rental market

Ensure adequate funding for independent advocacy services for renters

In NSW the Tenants Advice and Advocacy Program funds a network of 21 organisations across New South Wales. These services provide free information, advice and advocacy to tenants in their local areas. The network brings together the skills and expertise of highly skilled advocates who work to ensure that high quality professional advice and advocacy is available to all tenants in New South Wales.

In NSW the Tenancy Advice and Advocacy Program is in the unique position of having four specialist Aboriginal TAASs, plus an Aboriginal Resource Unit and Aboriginal Legal Officer who is based at the Tenants' Union NSW.

In our experience people come to Tenants' Advice and Advocacy Services when they are at risk of homelessness, seeking advice and assistance early to stop initial problems becoming large. NSW Tenants' Advice and Advocacy services play a significant role in preventing evictions and maintaining tenancies, which benefits the mental health and wellbeing of the community.

Over the last fifteen years demand for tenancy advice and advocacy services has increased and the indications are that demand will continue to increase for the foreseeable future. Resourcing of services has not kept pace with the growth in the number of residential tenancies in NSW and the growth in the number of disadvantaged households in the rental market whose tenancies are especially precarious. The capacity of Tenants' Advice and Advocacy Services to provide assistance has been significantly constrained by the lack of adequate resourcing for the network. In 2021 the network received a very modest permanent increase to its funding, and has also received two one-off grants of additional funding during Covid-19 in response to the increased support needs of renters. The need for a more substantial permanent increase in funding of the network remains.

Ensuring there is adequate resourcing of Tenants' Advice and Advocacy Services should be considered a priority action. Funding should be increased to ensure services can better meet demand, with increases to funding tied to growth in the number of tenancies, and the number of disadvantaged tenants. Additional funding for services and supports targeted to particularly vulnerable groups and/or those with specific needs around accessibility is also required. By adequately funding these services renters will be better supported to sustain their tenancies leading to longer tenure and improved mental health and wellbeing outcomes.

Recommendations

That the NSW Government adequately resources free, independent legal advice and advocacy services for renters.

That assessment of adequacy of resourcing takes into account the additional funding required for effective and appropriate provision of information, advice and advocacy supports for Aboriginal and Torres Strait Islander renters, renters from culturally and linguistically diverse communities, and renters with a disability.

That the NSW Government adequately resource the Tenants' Union of NSW to ensure renters have a voice and peak body able to represent their interests in discussion of housing and homelessness policy.

What roles should NSW Government departments and agencies play in that?

NSW Government departments and agencies are the key players in implementing the recommendations we have outlined above. These recommendations require legislative reforms and changes to social housing policies.

The other key role for the NSW Government to ensure that everyone has access to safe, secure and affordable homes is to be bold in the targets that are set for new social housing properties. We support a target of social housing properties to account for 10% of all housing stock by 2036. But this cannot be the end goal and instead should be viewed as a target which can be built on and expanded.

AHURI research has shown that just over 6% (close to 565,000) of Australian households are living in or have requested to live in a form of social housing. These figures do not include those households who are daunted by the application process or due to long waiting lists don't ever lodge an application. AHURI has projected growth in the demand for social housing by 2037 means over 1.1 million social housing homes will be needed.¹² NSW has a current unmet need of approximately 130,000 households, a figure supported by both leading estimates.¹³

The scarcity of social housing increases homelessness. Social housing is critical to making the housing system in NSW fairer and more affordable for everyone. Limited new affordable housing being delivered into the system, alongside rising demand, has driven up rental prices significantly in the private market. In addition the chronic undersupply of social housing and our reliance on the private rental market has pushed hundreds of thousands of people into an already overwhelmed and unaffordable rental market. Rising rents and increased competition mean they are paying a greater proportion of their income on rent, with little left to meet other essential needs.

Prioritising expanding social housing not only eases pressure on the private rental market but also acts as a safety net for those struggling with housing costs. Importantly, provision of 'non-market' housing actually provides positive pressure on market housing by introducing real competition and higher standards. The private market in this context is challenged to do better, especially at the lower ends of the market.

¹² AHURI (2023) What is the difference between social housing and affordable housing - and why do they matter? (Feb 2023)
<https://www.ahuri.edu.au/analysis/brief/what-difference-between-social-housing-and-affordable-housing-and-why-do-they-matter>

¹³ Lawson, J., Pawson, H., Troy, L., van den Nouwelant, R. and Hamilton, C. (2018) *Social housing as infrastructure: an investment pathway*, AHURI Final Report 306, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/306>, page 4.
National Housing Finance and Investment Corporation (2023) *State of the Nation's Housing 2022–23* Australian Government.
<https://www.housingaustralia.gov.au/research-data-analytics/state-nations-housing-report-2022-23>, page 101.

The longer we wait to build at the necessary scale the harder it will be to meet the need. The NSW Government needs to start with urgency as if we continue to wait then it will become harder to meet the increasing need.

Recommendation

NSW Government to set a target of social housing properties to account for 10% of all housing stock by 2036, utilising a combination of state, federal and local government resources.