

Submission of the Equality Rights Alliance into the Social Services Legislation Amendment (Housing Affordability) Bill 2017

14 November 2017

Equality Rights Alliance

Equality Rights Alliance is Australia's largest network advocating for women's equality, women's leadership and recognition of women's diversity. We bring together over 60 organisations with an interest in advancing women's equality. Our members are non government organisations, not for profits and social enterprises with a focus on the impact of policy or service delivery on women.

Equality Rights Alliance is managed by the YWCA Australia with funding from the Australian Government Office for Women as one of the six National Women's Alliances.

Social Services Legislation Amendment (Housing Affordability) Bill 2017

Equality Rights Alliance welcomes the opportunity to provide comment on the Social Service Legislation Amendment (Housing Affordability) Bill 2017. We restrict the focus of our submission to Schedules 1 and 2 of the Bill.

ERA supports the objective to reduce evictions from public housing into homelessness. It is clear a response is needed to this critical issue - any eviction into homelessness is one too many. We are deeply concerned that the compulsory diversion of income at the request of a social housing lessor proposed in the Social Services Legislation Amendment (Housing Affordability Bill) is overreach, will produce unintended consequences and highlights the limited body of evidence and publicly available data on public housing evictions needed to formulate and target effective public policy responses.

We are concerned that the Social Services Legislation Amendment (Housing Affordability) Bill is a departure from the fundamental inalienability of social security incomes. The proposal to allow lessors of social housing to compulsorily deduct payments of rent *and* certain other costs from tenant's income support payments infringe individual's capacity to direct and manage their own finances. Upholding the rights of all tenants across all tenures to access and manage their own finances is fundamental to people's dignity and autonomy. In addition, there are very real and practical implications of third parties diverting people's incomes, particularly where unexpected and emergency costs arise. One such example pertinent for women is the need to have control over finances to create and execute a plan to leave a violent relationship. Public housing tenants experience high rates of poverty with almost half (48.4%) surviving under the 50% of median income poverty indicator.¹ Given the limited incomes of tenants, the discretion to manage and direct spending is a vital buffer in times of crisis or unexpected outgoings.

¹ Australian Council of Social Service, *Poverty in Australia 2016*, 2016, Sydney: p31

The application of the Bill is wide-ranging, with any tenant or adult household member who has entered into an agreement that contemplates deductions being made² subject to the proposal. Given the national rent collection rates for public housing are 99.3%, for State Owned and Managed Indigenous Housing are 99.6% and for community housing are 98.9%³ the proposed response is disproportionate to the problem of public housing rental arrears and debt. Out of the 394 300 households in public housing across Australia, it is estimated that between 700-900 households are evicted annually as a result of rental arrears.⁴ This is a situation that requires a targeted solution responsive to the complex, underlying factors that contribute to rental arrears and vulnerability to eviction.

Research on the key population groups at risk of eviction in public housing points to a series of complex underlying factors that contribute to tenancy cessations. Experiences of domestic and family violence, mental health issues and problematic drug and alcohol use all underline vulnerability to rental arrears and evictions. Low income and inability to pay rent is also a key factor.⁵ Research in the area of public housing rental arrears and evictions identify possible policy solutions that centre on the need for increased early intervention services relating to financial, legal, health and specialist support.⁶ The role of specialist homelessness services in supporting public housing residents has been found to maintain tenancies.⁷ Increasing awareness of and access to information and services would assist vulnerable tenants at risk of and in the early stages of eviction.⁸ Finally, addressing the inadequacy of incomes for tenants in receipt of income support would “likely result in a reduction in the incidence of eviction.”⁹

The Rental Deduction Scheme (RDS) is already in place through Centrepay. As a voluntary scheme it has been found to reduce the risk of rental arrears accumulation and tenancy failure.¹⁰ There is a risk associated with cancelling or suspending deductions which has highlighted the need for early intervention tailored to the needs of that household at that point in time.¹¹ There is no publicly available data on the trajectories of households that cancel or suspend RDS. More research is required into the contributing factors and drivers that lead tenants to suspend or cancel RDS, which should inform effective and appropriate policy responses. Further, Centrelink breaches and resulting cancellation of payments have been found to result in rental arrears for people participating in the RDS. The protection provided

² There is a lack of clarity in relation to this aspect of the proposal. Further detail is needed on agreement and the process surrounding it.

³ Productivity Commission, *Report on Government Services 2017 – Chapter 18 Housing*, 2017, Melbourne: pp155-1657

⁴ Senate Community Affairs Committee, *ANSWERS TO ESTIMATES QUESTIONS ON NOTICE FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS PORTFOLIO 2013-14 Budget Estimates Hearings Question Number: 116*, Canberra

⁵ Andrew Beer, Michele Slatter, Jo Baulderstone and Daphne Habibis, *Evictions and Housing Management*, 2006, AHURI Final Report No. 94,

⁶ Australian Institute of Health and Welfare, *Exploring transitions between homelessness and public housing: 1 July 2011 to 30 June 2013*, 13 May 2015, Canberra and Sue Humphries and Sally Jope, *Rent Deduction Service: evaluation of the March 2003 changes*, 2005, Brotherhood of St Laurence, Melbourne: p3

⁷ AIHW, *Exploring Transitions*, p.vi

⁸ Beer et al, *Evictions and Housing Management*, pp. 56-57

⁹ *Ibid.*, p.46

¹⁰ Humphries and Jope, *Rent Deduction Service*, p.2

¹¹ *Ibid.*, p.3. See also MOSS 2005, research which makes recommendations on promoting voluntary rent deduction schemes and rewarding tenants who maintain direct debit rental payments without cancellation or suspension. Merri Outreach Support Service (MOSS) and La Trobe University School of Social Work and Social Policy, *What factors impact on people's capacity to maintain long-term tenancies? Did the SAAP experience help them?* 2005, Department of Family and Community Services, Canberra.

by the RDS is “undermined when an individual is breached by Centrelink”¹² This underlines the need to look at all factors that contribute to eviction vulnerability in developing targeted and appropriate responses to non-payment of rent.

We are particularly concerned about the implications of the Bill on victims and survivors of domestic and family violence. The Bill proposes that lessors can request deduction of payments for rent, household utilities and ordered or agreed costs relating to the occupancy of the premises.¹³ Domestic and family violence is a factor in the accumulation of rental arrears, particularly for people leaving their social housing property without notice.¹⁴ Family and domestic violence is a major reason people seek support to maintain their public housing tenancies.¹⁵ Such cases raise the contestability of rent owing and brings to attention to the need for policy responses that are tailored and responsive to situations of domestic and family violence.

These issues call attention to the lack of procedural fairness in the proposal. There is no room for engagement with a tenant or right of reply or appeal in the process. This is particularly of concern in a system which places the decision-making power in the hands of the party which stands to make a financial gain as a result of the decision to make a request to deduct payments from a lessee’s income. Moves to restrict the financial autonomy of tenants warrant a robust process that contains checks on the power of lessors and respects the personal agency of lessees.

It is clear from the evidence on social housing evictions, limited as it is, that a blanket approach to compulsory rent deduction embeds an infringement on the inalienability of social security incomes and casts too wide a net. Compulsory automatic rent deductions should be viewed as an available tool in situations where it is deemed appropriate in light of the decision-making capacity of a tenant and the risk of eviction and homelessness. Such a process would require an independent and expert decision-making mechanism. A suite of responses, tailored and responsive to the diversity of circumstances is required to meet the overriding objective of reducing evictions into homelessness. Where it’s deemed necessary and appropriate, compulsory rent deduction is one tool which should be applied on a case by case basis, reflecting the scale of the problem and in balance with other responses.

Recommendation:

Schedules 1 and 2 of the Bill should be rejected in their current form. If a compulsory rent deduction scheme is to be considered, safeguards around procedural fairness, expert or specialist decision-making mechanisms and a case-by-case basis must shape the proposal.

¹² Chris Hartley, *Debt Set Unfair –Social Housing, Debt and Homelessness*, 21 October 2016, Homelessness NSW, Sydney: p.11

¹³ In previous proposals for a compulsory rent deduction scheme, it has been highlighted by community organisations, among them Justice Connect (formerly PILCH), that utilities and other non-rental costs have no bearing on eviction risk. See: Chris Povey and Lucy Adams, *Housing Payment Deduction Scheme Submission*, 23 April 2013, Public Interest Law Clearing House (PILCH), Melbourne: p.1

¹⁴ Hartley, *Debt Set Unfair*, p.9 See also, Victorian Ombudsman, *Investigation into the management of maintenance claims against public housing tenants*, 30 October 2017, Melbourne .

¹⁵ AIHW, *Exploring Transitions*, p.11