

SUBMISSION

Improving NSW Rental Laws consultation paper

18 August 2023

Faith Housing Alliance (FHA) welcomes the opportunity to provide feedback on the *Improving NSW Rental Laws* consultation paper. FHA is the NSW peak body supporting the faith housing sector. Which includes;

- Faith-based Community Housing Providers (CHPs), many of whom have been providing support services to the community for hundreds of years. Just four of these members provided 65% of the homes delivered under the NSW Social and Affordable Housing Fund (SAHF)
- Places of worship across all faiths who want to use their land for housing justice
- Faith leaders of all denominations and religions who see housing as a critical component of social justice
- Any individual, organisation, foundation or program committed to housing justice.



FHA welcomes the NSW Government's commitment to supporting the more than two million people who rent across NSW (ABS 2021), representing nearly a third of the total households in NSW and the recent appointment of NSW's inaugural Rental Commissioner to be a voice for these households.

Sections

1. Supporting NSW's most vulnerable renters
 2. Response to consultation questions
- forms to support renters
recommendations

1. Supporting NSW's most vulnerable renters

FHA acknowledges that the consultation paper and its proposed changes cover all NSW renters; the focus of this submission and input from FHA's members centers on the experience of some of NSW's most vulnerable renters.

The feedback provided by CHPs reflecting the needs of and challenges tenants face in community housing can be different from the experiences of tenants and landlords in private market rentals and should be considered carefully.

Whilst most NSW renters are in private market rentals, just over 3.5% of households are renters in social housing, including public and community housing properties. Approximately 28,000 (DCJ 2023) households live in this type of community housing in NSW.

Community housing tenants have the same rights and responsibilities as private tenants but may experience additional economic, social, or other vulnerabilities. This cohort includes individuals and families in housing need who have very low to low incomes, sometimes having experienced or being at risk of homelessness.

In addition to social housing, CHPs often also provide:

- affordable rental housing for people on a broader range of incomes, leased at a discount to market rent
- specialist disability accommodation
- youth housing, including support for young people with lived experience of out-of-home care
- emergency accommodation.

NSW CHPs provide more than 54,000 properties across all housing categories. (CHIA 2022)

Reforms to benefit the vast majority of NSW tenants in private rentals must not have unintended consequences that would disadvantage tenants in community housing, whether social or affordable rental housing, who often have increased support needs.

2. Response to consultation questions

Removing no grounds terminations

FHA supports ending no-grounds evictions for periodic and fixed-term leases and implementing a range of specified reasonable grounds.

The preferred model for ending a lease is the model currently in place in the ACT, where the landlord needs a reason when ending any type of lease. This model helps prevent housing insecurity security and supports longer-term lease periods.

The proposed new reasons for ending a lease are helpful, although 'immediate family' needs to be defined.

With consideration for CHPs who provide crisis and transitional accommodation, the following prescribed reason should be added;

'the property is used for transitional/supported housing and the support program has ended'

This would support accommodation types designed to provide shorter-term housing.

Changes to a tenant's needs may mean a particular social housing property configuration is no longer suitable (for example, a parent with children and their family circumstances change or their family grows). To ensure the full utilisation of limited social housing stock, the following prescribed reason should be added;

'the property is used for social housing and is no longer suitable for the renter's needs'

Regarding notice periods, with the current housing shortage, it may take an extended period for a renter to secure a new property, and it may be fairer to consider a notice period longer than three months for tenants. Appropriate notice periods may vary depending on the grounds provided.

A new model for keeping pets

Many FHA members are largely supportive of the proposed provisions for pets. CHPs who already actively support tenants having a pet (some report up to 50% of community housing tenants having pets) have not experienced pets causing property damage. However, some have reported examples of pets not being looked after properly and have sought support from the RSCPA to provide education and assistance.

Recent Australian research demonstrates that human-animal bonds support mental health and wellbeing and are particularly important in crisis situations where pet ownership can discourage people from seeking help due to fears of leaving their pet behind. (Oosthuizen et al. 2023)

CHPs report limited staffing may make reviewing requests for pets challenging and suggest a response period of up to 28 days to consider the notice, particularly for periods such as Christmas and New Year.

Some properties are unsuitable for pets based on the style and density, or where there are shared facilities, such as a boarding house where the resident only has the right to occupy their room.

In these cases, to minimise time and cost to all parties to appear at NCAT while the new provisions are brought in, CHPs should be allowed to make a bulk application for properties deemed unsuitable based on style and density. If an ongoing order is

made for the property, this detail should be clearly communicated during the advertising and application process to avoid any confusion.

CHPs currently supporting pet ownership have also applied conditions:

- Requirement to have a pest spray and carpet cleaning done and a commitment from the individual to pay for any damages
- No breeding allowed
- Landlords can set an agreement for common area rules for properties, for example, with respect to sanitation, noise and access, to ensure the safety of all tenants living in higher-density properties

Renters' personal information

Many FHA members support measures to limit personal information to protect renters' privacy and to address discrimination in the application process.

CHPs note that social and affordable housing applications have additional eligibility criteria requiring further information and documentation to be collected from renters:

- In the case of social housing applicants, this information is collected through the Housing Pathways form, which may require more information than in the case of a private rental application. To ensure people in housing need can access housing appropriately, CHPs should be able to collect information in line with the Department of Communities & Justice requirements.

To help address long waiting lists for social housing, all CHPs should have access to the Housing Pathways system (at least 'view' access), regardless of their size. Smaller CHPs are currently experiencing additional administrative burden, and prospective tenants are sharing their details multiple times, which is not best practice. Providing access would also ensure that the person at the top of the list (NSW Housing Register) is the first to get the offer.

- In respect of affordable housing (which is also subject to eligibility criteria), additional information is required to establish eligibility for reduced rent. CHPs and companies supporting applications for affordable rental housing should be allowed to collect additional information and supporting documents in line with eligibility requirements and to help determine housing needs.

CHPs report anecdotal evidence from tenants looking to move into the private market experiencing discrimination based on receiving income support payments. Welcome Mat, an FHA member who helps match people in housing need with affordable rental housing, is an example of a system that could verify a tenant's ability to pay their rent while reducing discrimination.

Portable rental bond scheme

FHA's member CHPs take a variety of approaches regarding bond payments in acknowledgement that many of their tenants are already experiencing financial hardship, with 95% of tenants choosing an extended payment plan option. The most common approach was to pay bonds off within ten fortnights, while some specify a shorter period of three months, and others do not require a bond at all.

CHPs should have the flexibility to take the bond in instalments over an extended period to prevent further financial strain for tenants.

The portable rental bond scheme was generally supported by many FHA members and may assist tenants to transition to the private market when suitable. Some important considerations for implementation include:

- The portable rental bond scheme should be available to all NSW renters and should be optional for renters to use.
- Renters should be provided with a minimum of 30 days to top up their bond.
- CHPs/landlords should have 21-28 days to be able to make a claim on the old bond – this is to support providing evidence of the cost of repairs to support the claim.
- The scheme needs to be user-friendly – the current Rental Bonds Online is difficult for tenants to use. An option for either the tenant or the housing provider to commence the process may help the scheme be more widely accepted.

Information to help renters know when a rent increase is excessive

CHPs support limiting rent increases to once in a 12-month period, regardless of the type of lease.

CHPs broadly support greater transparency for renters, including publishing median rents for both private market and community housing properties, separately.

The information currently available to renters is based on the rental bond data held by NSW Fair Trading. FHA members suggest the following additional sources for consideration:

- Department of Communities & Justice rent and sales report (information updated each quarter)
- Domain or other property listings – data could be refreshed often, but may contain inaccurate information
- Compulsory reporting by landlords and agents using an online system

Data secured from additional sources should include median rents for suburbs/regions/LGAs and for standard property configurations and be made publicly available.

Other changes to improve rental affordability

FHA broadly supports the requirement to disclose where any services are provided via embedded networks in advertising and in the tenancy agreement.

Other changes to make rental laws better

CHPs broadly agree that landlords, agents and providers should offer an electronic way for tenants to pay their rent that is free, such as direct debit or direct bank transfer.

3. Housing policy reforms to support renters

Improving NSW Rental Laws will help to make renting fairer and prevent discrimination, but to meaningfully address the rental crisis, FHA calls on the NSW Government to:

Lever 1: Rapidly scale up housing supply

Invest in an immediate and sustained increase in the supply of social and affordable rental housing by matching the Commonwealth Social Housing Accelerator Fund, with a direct State Investment of \$610 million over two years, to be delivered in partnership with not-for-profit community housing providers.

Peak bodies across NSW and Australia collectively acknowledge the importance of adding to housing supply to see sustained downward pressure on rents.

Data released by the Australian Institute of Health and Welfare in July 2023 shows the total number of social housing units in Australia rose by less than 1% (AIHW 2023). Social housing in NSW was just 4.4% of all housing stock (compared to the OECD average of 7%), with the increase delivered in collaboration with community housing providers.

Lever 2: Ensure extended tenant support

Implement an evidence-based Housing First model (Roggenbuck 2022) – to create sustainable tenancies through providing tailored wrap-around tenant support services – ensuring a best practice approach as part of all housing funding, including the Social Housing Accelerator funding.

Research commissioned by FHA member, BaptistCare NSW & ACT, suggests that safe and secure housing combined with wrap-around services can deliver a threefold social return on investment associated with notable societal savings, including health, justice and unemployment. (ACIL Allen 2022)

For more detail on both levers, see [FHA's 'Not Just a Roof' NSW State Election 2023 policy priorities](#).

Implement shared recommendations for renters

FHA also shares a range of related policy positions with our NSW Housing and Homelessness peak partners. Specific actions to support renters:

- Expand rental assistance for low-income private renters to improve access and sustain tenancies
- Create a standing Hardship Fund and policy framework to support tenants and landlords in disasters

4. Summary of recommendations

Removing no grounds terminations

1. End no-grounds evictions for both periodic and fixed-term leases.
2. Implement the ACT model to improve housing security.
3. Introduce a prescribed reason in the case of crisis or transitional accommodation *'the property is used for transitional/supported housing and the support program has ended'*.
4. Introduce a prescribed reason when a social housing property is no longer suitable *'the property is used for social housing and is no longer suitable for the renter's needs'*.

A new model for keeping pets

5. The reasonable amount of time for a landlord to consider and respond to a renter's request to keep a pet should be up to 28 days.
6. Allow CHPs to make a bulk application to the Tribunal for properties of a particular style and density – where orders are made, these need to be transparently communicated in advertising and in the application process.
7. CHPs to be able to specify conditions such as cleaning requirements, no breeding and common area rules.

Renters' personal information

8. CHPs should be able to collect tenant information to access social housing in line with Housing Pathways requirements and have (at least view) access to the Housing Pathways system to ensure people at the top of the list receive an offer first.
9. CHPs and other organisations who are facilitating access to affordable rental housing should be able to collect the required information and supporting documentation to meet eligibility requirements and determine their housing need.

Portable rental bond scheme

10. The portable rental bond scheme should be available to all NSW renters and should be optional for renters to use.
11. CHPs should retain the flexibility to take the bond in instalments over an extended period (up to ten fortnights) to prevent further financial strain for tenants.
12. Renters should be provided with a minimum of 30 days to top up their bond.
13. CHPs/landlords should have 21-28 days to be able to make a claim on the old bond.

Information to help renters know when a rent increase is excessive

14. Limit rent increases to once in a 12-month period, regardless of the type of lease.
15. Improve transparency for renters, including publishing median rents for both private market and community housing properties, separately.

Other changes to improve rental affordability

16. Require disclosure where any services are provided via embedded networks in advertising and in the tenancy agreement.

Other changes to make rental laws better

17. Landlords, agents and providers should offer an electronic way for tenants to pay their rent that is free, such as direct debit or direct bank transfer.

5. References

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