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**We provide the following recommendations subject to the need for significant Aboriginal consultation, engagement and involvement on all levels of policy and service delivery. This submission has been developed in consultation with the Ngulluk Koolunga Ngulluk Koort program at Telethon Kids Institute, which has long identified that safe housing is a priority for Aboriginal children's needs in Perth. The Department of Communities must ensure Aboriginal community engagement and leadership in reforming public housing practices.**

## RECOMMENDATIONS

1. Establish a moratorium on the eviction of children from public housing into homelessness, until policy reforms have been developed and implemented.
2. Establish Aboriginal (Elder-led) and tenant reference committees to provide leadership and ensure implementation of reforms to ensure that public housing services effectively meet the needs of the Aboriginal community.
3. Establish policies and resource skilled teams to work with tenants at risk of eviction to identify the underlying issues threatening the tenancy, and partner with public and community services to address the households needs.
  - This means establishing processes at the Housing Authority to identify priority issues of family violence, mental illness and intergenerational trauma and work with families to engage support services rather than moving to eviction.
  - This means funding services to meet the needs of households facing evictions. Thrive is funded only as an early intervention program, and it needs a sister service for intensive support for evictions prevention. Since the de-funding of the First Nations Homelessness Project there is no service to meet the needs of families facing eviction.
4. Properly integrate housing and homelessness policy by adopting Housing First principles at the Housing Authority, so that public housing tenants at risk of termination are referred for intensive coordinated support, rather than eviction proceedings. This prevents the futility of the Housing Authority evicting families to homelessness, for the family to then sign up to a Housing First initiative, which aims to get housing first in order to address the other challenges people face.
5. Once policies for identifying family violence and mental illness are in place, and support services to eviction prevention established, then implement a target of zero children evicted to homelessness from public housing. Collate the data and report publicly on the number of children and Aboriginal children who are evicted from public housing each year, reporting against the target.
6. Collate and report the evictions data from the Housing Authority and Community Housing Providers, to understand the extent and nature of evictions from social housing as a driver of homelessness.

## SCALES and the Murdoch Clinical Program

The Southern Communities Advocacy Legal and Education Service Inc. (SCALES) is a community legal centre working predominantly in the Rockingham/Kwinana region southwest of Perth. SCALES provides free legal advice, information, and representation to people on low income and provides a statewide service in the area of immigration. It has a strong track record in a human rights-based approach to legal practice. This approach and the work that SCALES does, has been recognised in a number of awards and commendations including a National Australian Human Rights Award.

Murdoch School of Law, in collaboration with SCALES, runs a clinical legal education program which provides students the opportunity to work alongside SCALES' legal practitioners and Migration Agents to assist clients and contribute to law reform. This clinical program has also received many accolades, including a National Citation from the Australian Teaching and Learning Council. This

Submission to Inquiry into the financial administration of homelessness services in WA submission has been prepared with the assistance of our law students working at SCALES through the clinical program. Students have been assisted and supervised by Murdoch University Doctoral Candidate, Kate Davis, and Associate Professor Mary Anne Kenny.

## Introduction

Our service (SCALES) has represented clients in issues relating to public housing for the last 25 years. In particular, we have assisted clients who have faced evictions from public housing. This gives us a particularly good view of the process and its effectiveness.

Our submission to the Committee focuses on the eviction of children (particularly Aboriginal children) into homelessness from public housing. This fits into the terms of reference of the current inquiry and in particular we will be focussing on this issue in relation to the following points from the Committee's Terms of Reference:

(2) All Paths Lead to a Home', Western Australia's 10-Year Strategy on Homelessness 2020-2030

(3) existing data systems and how data informs service delivery

We are aware it is the Housing Authority who is responsible for tenants and properties. However, throughout this submission we refer to the Department of Communities as the main body responsible for implementing the Housing First Strategy and relevant policy.

## Human rights framework

Australia has ratified the International Convention on the Rights of the Child<sup>1</sup> which sets out the human rights of children. In particular Article 27 provides that countries should guarantee a standard of living adequate for the physical, mental, spiritual, moral and social development of the child, and as such need to take measure which implement that right including the provision of housing. Article 21 of the UN Declaration of the Rights of Indigenous Peoples also points to the importance of non-discriminatory access to housing for Indigenous People.<sup>2</sup>

Having a safe and secure home is not only a human right in itself, but it is also a "gateway" right, that is, without adequate housing individuals cannot adequately access their other human rights and freedoms.<sup>3</sup> Given a child's development is acutely susceptible to the influence of their environment and experiences<sup>4</sup> there is an established link between childhood homelessness and long-term consequences into adulthood. Childhood homelessness is associated with poor health, poor education outcomes and exposure to trauma for children and is a strong predictor for adult homelessness, incarceration and poor health outcomes.<sup>5</sup>

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<sup>1</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

<sup>2</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007). See also article 5 of *International Convention on the Elimination of All Forms of Racial Discrimination* which requires state parties to eliminate racial discrimination in respect of housing.

<sup>3</sup> Cassandra Austin, "Rights for the Homeless" (Working Paper No 5, Australian Housing and Urban Research Institute, 1996) 16.

<sup>4</sup> Shae Garwood, Wendy Simpson and Myles Kunzli, Anglicare, "Reducing Poverty and Improving Child Development in WA" (2021) 3.

<sup>5</sup> MacKenzie, D., Flatau, P., Steen, A., & Thielking, M. (2016). *The cost of youth homelessness in Australia research briefing*. Australia: Australian Policy online., and Y Aratani, "Homeless Children and Youth: Causes and Consequences" National Centre for Children and Poverty, Columbia University, 2009.

## Submission to Inquiry into the financial administration of homelessness services in WA

We are concerned with the extent to which the Department of Communities is contributing to this problem by virtue of evicting Aboriginal families with children from public housing into homelessness. A human rights framework would mean the Department of Communities has a responsibility to acknowledge and address its own practices that directly and indirectly contribute to Aboriginal childhood homelessness.

### The problem of Aboriginal children evicted from public housing to homeless

The right to safe and secure housing is a fundamental human right. This right has not been incorporated into WA legislation and has not been realised. Public housing tenants are vulnerable to eviction to homelessness, arguably in breach of our human rights obligations.

The issue of childhood homelessness has long been recognised as a serious human rights issue. However, that right is not realised in Western Australia where each year it is estimated on current (inadequate) data sources that over 500 households, including children, are evicted from government funded public housing to homelessness.

Community Forum Ngulluk Koolunga Ngulluk Koort Project<sup>6</sup>

“Stable accommodation for our kids as well, because it is hard when you don’t have a house and you are moving from house to house. It does affect your kids.” [Participant Mirrabooka Community Forum, 2017]

“one of the things that our families need is safe, stable and secure accommodation. It is really hard to work with families when they mightn’t have their own home, so you can’t do that ongoing support to the family. As soon as they fall behind in their rent or damage is done to the house, you know, they are being evicted by Homeswest. So that has a big impact on our families.” [Participant, Armadale Community Forum, 2016]

On Census night in 2016, Aboriginal and Torres Strait Islander people made up only 3.1% of the total population of Western Australia, yet 29% of people experiencing homelessness identified as Aboriginal and/or Torres Strait Islander.<sup>7</sup> Thirty nine percent of Aboriginal people experiencing homelessness are under the age of 18.<sup>8</sup> This is a number the Department of Communities is contributing to through public housing evictions.

The Department of Communities – Housing Authority provides public housing to individuals and families in Western Australia according to particular eligibility criteria. Each year the Housing Authority evicts hundreds of households from public housing, and report the following eviction numbers:

- 680 households were evicted in 2016-17,
- 562 households evicted in 2017-18 and

<sup>6</sup> Ngulluk Koolunga Ngulluk Koort (Our children, Our heart) is a five year research project at Telethon Kids Institute, to improve outcomes for Koolunga (children) in WA, with Noongar Elders in a co-researcher group, and has their researched identified insecurity of housing for Aboriginal families as one of Three Priority Areas <https://www.telethonkids.org.au/contentassets/2d5a0f1c3a26453c9d209614bc2ac4b7/nknk-recommendations-housing.pdf>

<sup>7</sup> Department of Communities. All Paths Lead to a Home. Western Australia’s 10-Year Strategy on Homelessness 2020-2030: Department of Communities, Government of Western Australia, 2020. <https://www.wa.gov.au/system/files/2021-06/homelessness-strategy-final.pdf> page 25.

<sup>8</sup>S Vallesi and L Wood, ‘An Evaluation Snapshot: Aboriginal Experiences of Housing First’ (2021) [https://www.csi.edu.au/media/uploads/aboriginal\\_experiences\\_of\\_housing\\_first\\_centre\\_for\\_social\\_impact\\_uwa.pdf](https://www.csi.edu.au/media/uploads/aboriginal_experiences_of_housing_first_centre_for_social_impact_uwa.pdf).

- 517 households in the period from July 2018 to April 2019<sup>9</sup>.

This data was provided to a journalist on request, but data is not regularly available. Data on evictions is not published in the Department Annual reports, and obtaining further detail about the evictions, such as the number of children evicted, and the number of Aboriginal households evicted is difficult. There is currently no reported data of the number of children evicted to homelessness from public housing, nor a proper understanding of the extent to which this disproportionately impacts Aboriginal children.

Housing advocates have raised the concerns that hundreds of Aboriginal children are evicted from public housing into homelessness each year in Western Australia<sup>10</sup>. Their concerns come from their experience working in the community, and it is imperative that the data is reviewed to understand this serious issue.

The need to adequately engage with the vulnerability of an Aboriginal household being evicted from public housing into homeless is exacerbated when a child is involved. With children being a priority homelessness cohort,<sup>11</sup> the consequences that flow from childhood homeless must be at the forefront of the Department of Communities' practice when the question of evicting an Aboriginal household arises. As Article 3 under the *Convention on the Rights of the Child* states: "1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child shall be a primary consideration.*"<sup>12</sup> A child being made homeless when evicted from public housing is unquestionably not a decision made with regard to the best interests of the child.

[REDACTED] and her five children were forced to leave public housing after the cost of being a full time carer for her son meant she couldn't afford the electricity bill. [REDACTED] was formally evicted for non-payment of rent. Following accrued debt and eviction, [REDACTED] (her family) experienced nearly a decade of homelessness. Stephanie Convery, 2021, Aboriginal People in WA's Public Housing System are Fighting Against a Relentless Tide of 'Punitive Polic': <https://www.theguardian.com/australia-news/2022/mar/20/aboriginal-people-in-was-public-housing-system-are-fighting-against-a-relentless-tide-of-punitive-policy>

According to Western Australia's Homelessness Strategy 'All Paths Lead to a Home' (the strategy) one of the high priority's is 'reducing barriers and increasing opportunities for safe and secure housing for Aboriginal people and families, including short-term accommodation, social housing and in private rentals.<sup>13</sup> However the Department of Communities continues to evict Aboriginal children and families into homelessness, directly contributing to the youth homelessness crisis. While evictions

<sup>9</sup> Housing Authority statement to Jesse Noakes, journalist, Crikey, "Punitive public housing tenancies are pushing people into the streets", 26 June 2019 <https://www.crikey.com.au/2019/06/26/public-housing-western-australia/>

<sup>10</sup> First Nations Homelessness Project spokesperson raises concern of up to 1000 Aboriginal children evicted each year - <https://www.watoday.com.au/national/western-australia/a-false-economy-and-a-cruel-one-housing-evictions-push-people-deeper-into-system-20191210-p53ik3.html> And, pers comm with Kate Davis, Departmental manager advised that anecdotally he understood 50-60% of evictions were Aboriginal families; with 200-300 Aboriginal families evicted annually, a conservative estimate is 500+ Aboriginal children are evicted each year.

<sup>11</sup> Australian Government, *National Housing and Homelessness Agreement* (1 July 2018) Schedule B, B2(b).

<sup>12</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

<sup>13</sup> Department of Communities. All Paths Lead to a Home. Western Australia's 10-Year Strategy on Homelessness 2020-2030: Department of Communities, Government of Western Australia, 2020. <https://www.wa.gov.au/system/files/2021-06/homelessness-strategy-final.pdf> page 25.

Submission to Inquiry into the financial administration of homelessness services in WA continue to occur, currently the Department of Communities does not provide accessible data or reports on the number of Aboriginal children being evicted into homelessness.

**Recommendation ONE Establish a moratorium on the eviction of children from public housing into homelessness, until policy reforms have been developed and implemented.**

The current homelessness crisis is as a result of entrenched inequality faced by Aboriginal families in the community, in line with the National Closing the Gap Agreement the Department of Communities should work with Aboriginal communities to ensure that public housing services effectively meet the needs of the community.

In Aboriginal culture, Elders are the Birdiyas (Bosses). The process of delivering culturally safe services includes recognising and honouring the role and status of Elders in Aboriginal culture and putting them at the centre of the process. As one of the participants in the Ngulluk Koolunga Ngulluk Koort project said “Culture is connected to learning to respect your Elders, connection to the bush, being proud of our ancestors and proud of who we were, and then rebuilding yourself for the new, contemporary way to be a Noongar”

**Recommendation TWO**

**Establish Aboriginal (Elder-led) and tenant reference committees to provide leadership and ensure implementation of reforms to ensure that public housing services effectively meet the needs of the Aboriginal community.**

## All Paths Lead to a Home Housing First shortfall

Policies across homelessness support services and the Department of Communities have increasingly moved toward a Housing First approach to homelessness.<sup>14</sup> This approach aims to prioritise getting homeless people into permanent housing without setting preconditions.<sup>15</sup> Previous approaches to housing employed a “staircase” model whereby a homeless person could not be allocated public housing unless they were deemed psychosocially stable in order to sustain a tenancy.<sup>16</sup> The staircase model has been widely criticised for treating housing as a privilege whereby self-improvement was an onerous precondition a tenant must meet prior to being “rewarded” with a home. Failing to maintain this self-improvement results in perpetual homelessness.<sup>17</sup>

The Department of Communities’ “All Paths Lead to a Home: Western Australia’s 10 Year Strategy on Homelessness 2020-2030” (the Strategy) states its commitment to Housing First with “provid[ing] people access to safe and stable housing without preconditions or judgement” being the

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<sup>14</sup> The Western Australian Alliance to End Homelessness, “Ending Homelessness in Western Australia 2021” (2021) 90.

<sup>15</sup> The Western Australian Alliance to End Homelessness, “Ending Homelessness in Western Australia 2021” (2021) 90.

<sup>16</sup> The Western Australian Alliance to End Homelessness, “Ending Homelessness in Western Australia 2021” (2021) 90. The former Supported Accommodation Assistance Program (SAAP) (1985-2011), a Commonwealth-State homelessness support program, employed this model. The 2006 Senate Select Committee on Mental Health found that over 50% of agencies under the SAAP allowed the refusal of services to clients on the basis of their mental health Senate Select Committee on Mental Health, *A National Approach to Mental Health – From Crisis to Community* (30 March 2006) 244.

<sup>17</sup> Andrew Clarke and Cameron Parsell, “The role of housing policy in perpetuating conditional forms of homelessness support in the era of housing first: Evidence from Australia” (2020) 35(5) *Housing Studies* 954, 957.

Submission to Inquiry into the financial administration of homelessness services in WA strategy's "first and primary goal."<sup>18</sup> The Strategy acknowledges: "Research and international practice demonstrates that putting people into housing and then addressing their specific needs through support services is far more effective than traditional models of service provision without the corner stone of housing."<sup>19</sup> The focus of the policy to date has been to support rough sleepers into housing.

However, the Department of Communities' internal policy is inconsistent with the Housing First framework states the following as a reason for refusing a former tenant public housing: "[t]he applicant has a history with the Housing Authority of failing to meet tenancy obligations including disruptive behaviour, unsatisfactory property standards, rent arrears and other debt."<sup>20</sup> These reasons for being refused or evicted from public housing are the very "needs" requiring support that a genuine Housing First model would not hold against a public housing tenant.

The Department of Communities website recommends the Thrive program for Aboriginal public housing clients.<sup>21</sup> This is an early intervention program that is intended to link in families to other support programs. Thrive was designed to support tenants from the early stages of a tenancy and prevent escalation to crisis in a tenancy, and this is a valuable role. Thrive operates with limited referral criteria, and with caps on hours of assistance to tenants (usually up to 12 hours). As such, Thrive is not designed to, and cannot meet, the needs of families in crisis facing eviction to homelessness. There needs to be a sister service for Thrive which coordinates intensive supports to prevent evictions to homelessness.

The First Nations Homelessness Project lost federal funding in 2021, it provided much needed practical one on one support to families who were struggling to maintain their properties, pay rent and bills all of which were important steps to avoid eviction.<sup>22</sup> The First Nations Homelessness Project was an exceptionally effective housing support program which took a holistic approach to supporting Aboriginal families to sustain their tenancy, where they had faced eviction. This program prevented hundreds of evictions, and their success demonstrates the way forward to avoid evictions to homelessness.

### **Recommendation THREE**

**The Department of Communities should establish policies and resource skilled teams to work with tenants at risk of eviction to identify the underlying issues threatening the tenancy, and partner with public and community services to address the households needs.**

- **This means establishing processes at the Housing Authority to identify priority issues of family violence, mental illness and intergenerational trauma and work with families to engage support services rather than moving to eviction.**
- **This means funding services to meet the needs of households facing evictions. Thrive is funded only as an early intervention program, and it needs a sister service for intensive support for evictions prevention. Since the de-funding of the First Nations Homelessness Project there is no service to meet the needs of families facing eviction.**

While seeking support is framed as voluntary endeavour, the Department of Communities states: "[t]ermination proceedings are only initiated by the Housing Authority when tenants fail to utilise all the opportunities provided to them to pay outstanding debts, improve behaviour or improve poor property standards." The risk of a person choosing not to engage with support being evicted

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<sup>18</sup> Government of Western Australia, Department of Communities, *All Paths Lead to a Home: Western Australia's 10 Year Strategy on Homelessness 2020-2030* (2019) 9.

<sup>19</sup> Government of Western Australia, Department of Communities, *All Paths Lead to a Home: Western Australia's 10 Year Strategy on Homelessness 2020-2030* (2019) 32.

<sup>20</sup> Government of Western Australia, Housing Authority, *Housing Assistance Assessment* cl 4.1.2.b.,

<sup>21</sup> <https://www.housing.wa.gov.au/investorsandpartners/thrive/Pages/default.aspx>

<sup>22</sup> <https://www.abc.net.au/news/2021-06-24/fiona-stanley-wa-government-first-nations-homelessness-project/100241880>

practically means that engagement is in fact conditional on maintaining a tenancy. The current policies set tenants up to fail because:

- the Department of Communities fails to have policies to identify issues of family violence, mental illness or intergenerational trauma,
- has poorly designed referral restrictions and
- funds limited services which do not meet the needs of a tenancy in crisis.

This can be remedied easily. The Housing First model provides for coordination of holistic supports for a person in homelessness to enter housing – these same coordinated holistic supports should be available for public housing tenants facing evictions, to prevent worsening their situation by eviction to homelessness.

#### CASE EXAMPLE

■■■■ along with her newborn baby were evicted from public housing for \$3000 worth of damage to the property caused by her violent ex partner and behavioural complaints. Subsequently ■■■■ baby was removed from her care.

Tess Ingram, 2021, 'Her Babies Taken and Under Threat of Evictions: Why Our System is not working for Women Like Mila' <https://www.watoday.com.au/national/western-australia/her-babies-taken-and-under-threat-of-eviction-why-our-system-is-not-working-for-women-like-mila-20210507-p57pu7.html>

Publicly espousing Housing First policy while continuing to practice the conditionality logic of a staircase model is a contradiction in need of interrogation. It must be acknowledged that Housing First is a drastic reversal of former policies. As such, we cannot expect a seamless paradigm shift and the Strategy does accept “[i]t will take time to embed this shift ...”<sup>23</sup> However, we do need to hold the Department of Communities accountable to its commitment to transition to Housing First on behalf of its public housing tenants, especially Aboriginal families. Given Aboriginal families disproportionately require public housing compared to non-Aboriginal people,<sup>24</sup> enduring practices of conditionality has the effect of indirect discrimination on Aboriginal children. Indirect discrimination arises when policies applies to everyone, yet has an unfair effect on a group of people with a common characteristic, such as gender or race.<sup>25</sup>

The Bringing Them Home report recognised that Australian government policies historically and presently have this effect on Aboriginal people.<sup>26</sup> As the Northern Land Council submission incorporated in the report reads: “All the reports on Aboriginal services and funding are indicating that the situation for Aboriginal people is not improving. Health, education, housing, water, infrastructure, and roads are all basic citizenship rights of Australians, yet Indigenous people are not receiving an equal level of service outcomes.”<sup>27</sup>

Intergenerational trauma emanating from historical assimilation policies underscore the racism, poverty, high incarceration rates, unemployment and lower education levels Aboriginal people

<sup>23</sup> Government of Western Australia, Department of Communities, *All Paths Lead to a Home: Western Australia's 10 Year Strategy on Homelessness 2020-2030* (2019) 32.

<sup>24</sup> The Western Australian Alliance to End Homelessness, “Ending Homelessness in Western Australia 2021” (2021) 78.

<sup>25</sup> “Indirect Discrimination”, *Australian Human Rights Commission* (Web Page) <<https://humanrights.gov.au/quick-guide/12049>>.

<sup>26</sup> Human Rights and Equal Opportunity Commission, *Bringing them home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997) 492.

<sup>27</sup> Human Rights and Equal Opportunity Commission, *Bringing them home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997) 490.



Submission to Inquiry into the financial administration of homelessness services in WA continue to face today.<sup>28</sup> Under a Housing First approach, a stable home is recognised as foundational for Aboriginal people affected by such struggles in order to voluntarily engage with the relevant support. However, as it stands, the psychological, social and economic difficulties Aboriginal people are more likely to face coincide with a person's susceptibility to being made homeless under the Department of Communities' eviction policy. The Department of Communities' persisting policies of conditionality only reinforce Aboriginal people's disadvantages. The discriminatory impact of public housing policy in Western Australia has been a long running and well documented problem with wide ranging consequences – see for example the 1991 Royal Commission into Aboriginal Deaths in Custody, and the 2004 Equal Opportunity Commission report Finding a Place<sup>29</sup> with many similar issues identified in the 2018 Auditor General's report Managing Disruptive Behaviour in Public Housing<sup>30</sup>.

## RECOMMENDATION FOUR

**Properly integrate housing and homelessness policy by adopting Housing First principles at the Housing Authority, so that public housing in tenants at risk of termination are referred for intensive coordinated supports, rather than eviction proceedings. This prevents the futility of the Housing Authority evicting families to homelessness, for them to then sign up to a Housing First initiative, which aims to get housing first in order to address the other challenges people face.**

## Current data

The Australian Institute of Health and Welfare has acknowledged “for social housing data, there are inconsistencies in reporting across states and territories and over time as a result of jurisdiction-specific inclusions and exclusions, issues with completeness.”<sup>31</sup> Interestingly, one of the priority actions of the strategy is to improve sharing, collection and use of data, information, and intelligence.<sup>32</sup> Indeed, this is a requirement of the National Housing and Homelessness Agreement between the Commonwealth and States, which provide substantial funding. The strategy also highlights that data collection amongst community stakeholders is crucial to developing and implementing an effective coordinated response to homelessness.<sup>33</sup> Similarly priority reform four of the National Agreement on Closing the Gap explains “governments provide communities and organisations with access to the same data and information they use to make decisions.”<sup>34</sup> The importance and need for data collecting and sharing is widely acknowledged and consistently flagged as an important tool.

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<sup>28</sup> Shannen Vallesi, Eleanor Tighe, Herbert Bropho, Margaret Potangaroa and Leah Watkins, “Wongee Mia: An Innovative Family-Centred Approach to Addressing Aboriginal Housing Needs and Preventing Eviction in Australia” (2020) 17(15) *International Journal of Environmental Research and Public Health* 5501, 5502.

<sup>29</sup> Finding a Place- an inquiry into the existence of discriminatory practices in relation to the provision of public housing and related services to Aboriginal people in Western Australia. Equal Opportunity Commission, 2004, <http://diviv.blob.core.windows.net/eoc-sitefinity/publications/finding-a-place---report-on-investigation-into-public-housing-discrimination-200432f8565bde9f62fcb668ff0000be6566.pdf?sfvrsn=4>

<sup>30</sup> The Auditor General's report does not expressly conclude that Housing Authority practices are discriminatory but raises the concerns that strikes are issues in cases of family violence, mental illness and intergenerational dysfunction, and that data collection is poor and that early intervention opportunities are lost. The collective effect of this is in discriminatory.

<sup>31</sup> Australian Institute of Health and Welfare 2019. Aboriginal and Torres Strait Islander people: a focus report on housing and homelessness, HOU 301. Canberra: AIHW, 10.

<sup>32</sup> Department of Communities. All Paths Lead to a Home. Western Australia's 10-Year Strategy on Homelessness 2020-2030: Department of Communities, Government of Western Australia, 2020. <https://www.wa.gov.au/system/files/2021-06/homelessness-strategy-final.pdf> page 25.

<sup>33</sup> Department of Communities, *ibid*, 32.

<sup>34</sup> Australian Government, 'Priority Reforms Closing the Gap' <https://www.closingthegap.gov.au/national-agreement/priority-reforms>.

## Submission to Inquiry into the financial administration of homelessness services in WA

Currently the Department of Communities relies heavily on data collected from multiple sources including the Census of Population and Housing, Specialist Homelessness Services Data collection, By Name List and Public Housing Applications.<sup>35</sup> None of these data sources specifically identify how many Aboriginal Children are being evicted from public housing into homelessness. The lack of transparent and readily available data makes it difficult to determine how many children are entering homelessness as a result of evictions as well as how this may disproportionately impact on Aboriginal children.

In 2015 an analysis of data by the Australian Housing and Urban Research Institute (AHURI) showed that Western Australia had the highest rate of evictions from public housing tenancies compared to ACT, NSW, SA, Tas and Vic.<sup>36</sup> Crikey reported in 2019 that the WA Housing Authority evicts at 6 times per capita the rate of public housing in Victoria<sup>37</sup>.

### CASE EXAMPLE

In 2015 ██████████ was evicted from social housing along with her three teenage daughters. They were evicted for alleged disruptive behaviour and damage to property. ██████████ and her 15 year old daughter were evicted into homelessness and forced to live in a car. The Housing authority claims she owes debt which she is expected to pay whilst living off Newstart Allowance. Claire Moodie, 2021, 'Evictions of Aboriginal Families in Perth Under Scrutiny, as FOI Documents Released.' <https://www.abc.net.au/news/2021-07-03/aboriginal-tenants-evicted-but-real-numers-not-known/100249986>

## What data do we need?

Youth homelessness is at a crisis and Aboriginal children bear the greatest burden of homelessness. Understanding the drivers of homelessness particularly for children and young people is critical to developing and implementing policy and practice to prevent homelessness. One of the ways to understand these issues is through the collation and reporting of relevant data. Data can provide evidence of outcomes that may contradict and challenge human rights and so highlight key internal issues within an organisation.

The critical issue of children being evicted from public housing into homelessness has been raised by the community services sector for some years – including collective letters to the Ministers from our peak bodies WACOSS, Shelter WA, WAAMH, CLCAWA, YACWA, Tenancy WA in 2017 calling for a moratorium on the eviction of children.<sup>38</sup> Five years on, we are concerned that the Department of Communities continue to terminate tenancies evicting children into homelessness without proper consideration of their needs. How can the issue of children being evicted be identified and managed if there is no current data reflecting the issue? How can priority actions be measured and compared without specific data? How can goals, targets and outcomes prove successful without specific data and evidence? Recording and reporting data on the number of children and Aboriginal

<sup>35</sup>Department of Communities 'Inquiry into the Financial Administration of Homelessness Services In Western Australia Submission' (2022) pp. 6-7  
[https://www.parliament.wa.gov.au/Parliament/commit.nsf/lulnquiryPublicSubmissions/6E2A49EA658A34894825880E00290EFD/\\$file/00027NoCover.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/lulnquiryPublicSubmissions/6E2A49EA658A34894825880E00290EFD/$file/00027NoCover.pdf)

<sup>36</sup>Across all jurisdictions, the rate of eviction was 0.42 per cent in 2011–12 and 0.53 per cent in 2012–13. The lowest eviction rate was reported by the ACT (0.08% in 2011–12 and 0.16% in 2012–13) and the highest in WA (1.16% in 2011–12 and 1.40% in 2012–13). Kaylene Zarestzky & Paul Flatau, *The Cost effectiveness of Australian tenancy support programs for formerly homeless people*, (2015) Australian Housing and Urban Research Institute (AHURI) Final Report no 252, 58-59.

<sup>37</sup> The housing authority has revealed to *Crikey* that 562 public housing tenancies were ended via legal action in WA last year, down from 680 in 2016/17 In the same period, Victoria had 275 total evictions from public housing, in a state with more than double WA's population.  
<https://www.crikey.com.au/2019/06/26/public-housing-western-australia/>

<sup>38</sup> Correspondence attached

Submission to Inquiry into the financial administration of homelessness services in WA children evicted from public housing is critical to understanding the issue and ensuring policies are in place to protect children and uphold their human rights.

The National Closing the Gap strategy states that data must be led by Aboriginal and Torres Strait Islander people in order to “have access to, and the capability to use, locally relevant data and information of efforts to close the gap, thrive priorities and drive their own development”<sup>39</sup>

## Recommendation FIVE

**Establish a target of zero children evicted to homelessness from public housing. Collate the data and report publicly on the number of children and Aboriginal children who are evicted from public housing each year, reporting against the target.**

### Why we need the data

The Action Plan focus area “Preventing Homelessness” is concerned with “keeping people housed”, focusing on “assisting individuals and cohorts who are at a higher risk of homelessness.”<sup>40</sup> While this focus area emphasises assisting vulnerable cohorts, we are concerned the Department of Communities is falling short in adequately acknowledging and addressing the reasons *why* certain cohorts are vulnerable to homelessness. The Action Plan focus area “Improving Aboriginal wellbeing” sets out: “These actions aim to reduce the disproportionate representation of Aboriginal people within the overall homelessness population.” If we are to reduce this disproportion, we must first know what is accounting for the disproportion by robust data collection. This includes requiring the Department of Communities to acknowledge the extent to which it contributes to this disproportion by publishing the data on Aboriginal tenants evicted into homelessness from public housing. Such data will allow the public to hold the Department of Communities accountable to the Action Plan’s aim to “meet the needs of Aboriginal people and families.”<sup>41</sup> Priority Action 2.1 under the Action Plan, the Department of Communities commits to:

Engage an Aboriginal consultant to undertake an independent review of operational practices regarding evictions from public housing. The aim of the review is to ensure practices and decision making around evictions are culturally appropriate and do not have unintended negative or discriminatory consequences for Aboriginal people.<sup>42</sup>

This Priority Action is a step in the right direction But to be effective, this must be accompanied by a willingness to implement reforms, and to collate and report the data to undertake ongoing monitoring of discriminatory or unintended outcomes. We were not able to locate a report publicly, and are unaware of whether this review has been undertaken yet.

Increasing the accessibility and amount of government data that is available improves both transparency and accountability as well as supports evidence-based policy development.<sup>43</sup> The implementation of regular data collection and detailed reporting on social housing evictions will provide evidence of trends and risk factors that contribute to children being evicted into homelessness and highlight areas of need to support vulnerable families. Data collection and reporting will highlight any policy that results in discriminatory outcomes and disproportionately impacts on Aboriginal children in the social housing sector. Data will allow departments and community organisations to measure and compare targets, goals and priority actions and understand whether policy is successful or not.

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<sup>39</sup> <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/3-objective-and-outcomes>

<sup>40</sup> Government of Western Australia, Department of Communities, *Action Plan 2020-2025* (August 2020) 13.

<sup>41</sup> Government of Western Australia, Department of Communities, *Action Plan 2020-2025* (August 2020) 8.

<sup>42</sup> Government of Western Australia, Department of Communities, *Action Plan 2020-2025* (August 2020) 9.

<sup>43</sup> Information and Privacy Commission New South Wales, ‘Open Government, Open Data and Public Participation’ <https://www.ipc.nsw.gov.au/information-access/open-government-open-data>.

## Submission to Inquiry into the financial administration of homelessness services in WA

Other grassroots community organisations involved with housing and Aboriginal families can use this data to support program and service delivery and ensure they are supporting vulnerable families at risk of eviction. The Department of Communities can use the data to analyse their own policy and practices and identify and rectify any discriminatory practices that disproportionality impacts on Aboriginal children. Sharing such data provides the community with insight into what resources are needed and where to prevent homelessness and support the wider community to support vulnerable at-risk families. Collecting and reporting detailed data will highlight the need to implement policy that protects children and vulnerable families from homelessness and prevent evictions from public housing.

Western Australia's Homelessness Strategy 'All Paths Lead to a Home' states 'to improve outcomes it is key that policies and practices support at risk tenancies and prevent exits to homelessness, particularly from vulnerable people and families.'<sup>44</sup> Collating and releasing data on social housing evictions is crucial to being accountable to this objective.

### RECOMMENDATION SIX

**Collate and report the evictions data from the Housing Authority and Community Housing Providers, to understand the extent and nature of evictions from social housing as a driver of homelessness**

#### CASE STUDY – importance of data

##### ██████████ v Homeswest

██████████ a Yamatji grandmother, was evicted from her home by Homeswest in 1997 on the grounds of overcrowding amounting to nuisance. At the time of the eviction there were 3 adults and 14 children in the house. This was largely as a result of the Housing Authority's decision to evict ██████████ children (who were also Homeswest tenants) for alleged antisocial behaviour from their respective tenancies. ██████████ challenged the eviction in the WA Equal Opportunity Commission claiming direct discrimination, indirect discrimination and victimisation.

██████████ sought to make a case that her eviction on the overcrowding ground was indirect discrimination in that she was under a cultural obligation to accommodate her children and grandchildren. A significant difficulty that ██████████ faced in making a case of discrimination was the lack of available statistical evidence as to evictions between Aboriginal and non-Aboriginal tenant on the basis of nuisance and overcrowding.

An inquiry after the ██████████ case by the Equal Opportunity Commission of WA relating to the provision of public housing to Aboriginal People in WA found that a key issue facing the inquiry was the inability of the Department to provide relevant data on application and tenancy matters and recommended "collecting, recording and maintaining information which can readily report on possible inequalities, including factors that may be the cause of differential housing outcomes. Regular and systematic analysis of such data will remain the measure of success and establish whether such measures are succeeding."<sup>45</sup>

<sup>44</sup> Department of Communities. All Paths Lead to a Home. Western Australia's 10-Year Strategy on Homelessness 2020-2030: Department of Communities, Government of Western Australia, 2020, 41 <https://www.wa.gov.au/system/files/2021-06/homelessness-strategy-final.pdf>

<sup>45</sup> Equal Opportunity Commission, Final Report of the Implementation and Monitoring Committee for the Section 80 Implementation and Monitoring Committee of the Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing to Aboriginal People in Western Australia. (2010) <https://www.wa.gov.au/system/files/2020-09/Finding%20a%20Place.pdf>, 43

12/4/2017

Hon Peter Tinley, Minister for Housing  
7th Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

Dear Minister Tinley,

### **Review of evictions policy at the Housing Authority**

Congratulations on your re-election and your appointment as Housing Minister, we look forward to working with you for the benefit of all Western Australians. I write on behalf of the Network of Tenancy Advocates, to seek a meeting with you at your earliest convenience.

Tenancy WA is the specialist community legal centre for tenants, and the central resource unit for the network of tenant advocates across Western Australia.

We know from your work as the Member for Willagee that you are well aware of some of the problems arising from the previous government's approach to public housing and evictions policy in particular.

We believe that there are a range of practical and cost neutral steps that the Housing Authority can take to better sustain tenancies and avoid the current high rates of unfair evictions to homelessness. Below I have set out our principal concerns and then below that, our key recommendations for reform.

We have set out a number of issues in detail in this letter, and we are able to provide more information on any particular issues raised. We look forward to the opportunity to meet with you to discuss the priority issues at your earliest convenience. I can be contacted on [REDACTED] or (direct line) [REDACTED] to make arrangements.

Below we have set out concerns and recommendations with respect to:

[Evictions involving domestic violence or mental illness](#)

[Eviction of tenants with serious mental illness](#)

[Eviction of children](#)

[Recommendation for moratorium on evictions](#)

[Recommendations with respect to Discretion](#)

#### **Telephone Advice Line:**

(08) 9221 0088 (Metropolitan)

1800 621 888 (Country Free Call)

Fax: (08) 62638590

2/18 Plain Street, East Perth WA 6004

[\*\*www.tenancywa.org.au\*\*](http://www.tenancywa.org.au)

[Recommendations with respect to DV and Mental health screening](#)  
[Recommendations with respect to eviction of children](#)  
[Recommendations for termination proceedings as a last resort](#)  
[Recommendations to limit without grounds terminations](#)

### Evictions involving domestic violence or mental illness

In our experience many families face eviction from public housing due to 'disruptive behavior' or damage and 'property standards' arising from circumstances of domestic violence or serious mental illness. We are very concerned that the Housing Authority does not have effective policy or practices to identify cases involving domestic violence or mental illness. Further, we are concerned that where the Housing Authority does identify domestic violence or serious mental illness, in many cases the Authority still proceeds to Court to seek eviction, rather than engaging effectively with the community or government services to provide appropriate supports to sustain a tenancy.

Where the Housing Authority's allegations arise from circumstances of domestic violence (eg neighbors complain of disturbances with yelling and violence) this means that the Housing Authority is evicting women and children for being victims of domestic violence. Unfortunately it is not uncommon for the Housing Authority to disregard the advice of the DCPFS where they are also working with the family, and continue to seek evictions despite DCPFS advice that the current housing is important for achieving child protection outcomes. We have run cases in the Magistrates Court where we have called DCPFS officers and/or School Principals or other staff to give evidence of the family circumstances to oppose the termination application from the Housing Authority. Resolution of these cases through lengthy litigation involving several government departments is a considerable waste of public resources, which would best be directed to seeking practical collaborative resolutions to sustain the tenancy and prevent homelessness.

### Eviction of tenants with serious mental illness

We also deal with a high number of cases where the Housing Authority seeks terminations for incidents arising from a tenant in psychosis, or periods of being very mentally unwell. We are concerned that even where the Housing Authority has been advised of a tenant's serious mental illness, the Authority may proceed to eviction or continue through a three strikes process without engaging with mental health support services. Tenant advocates are often successful in having these termination applications dismissed, and in our experience the Housing Authority may be willing to negotiate to withdraw termination applications where the tenant is suffering serious mental illness, and practical arrangements can be made to address the issues (eg by transfer to more supported accommodation or to more appropriate housing). But, the process of going to Court to defend a termination application, and facing homelessness, is extremely stressful, and in our experience this high level of stress impacts negatively on tenants' mental health, and can lead to serious deterioration of health and hospitalisation. It is imperative that the Housing Authority implements policies and practices for early identification of tenancies effected by a tenant's mental illness, and engage with mental health support agencies to work to sustain the tenancy, rather than simply proceeding through the usual Disruptive Behaviour Management Unit (DBMU) investigation process, issuing strikes and seeking termination orders.

## Eviction of children

As a result of the lack of appropriate practices in response to domestic violence and mental illness, we are very concerned about the high number of children who have been evicted to homelessness from public housing. Childhood homelessness is the single greatest predictor of adult homelessness, and is a serious risk factor for juvenile and adult imprisonment. To put it bluntly, evicting children from public housing is creating a fast track to prison for children who already face significant disadvantage in our community. Public housing is part of the community's commitment to vulnerable children, and one of the ways that we can give children a chance to access the opportunities that come from education and good health, regardless of their parents' circumstances.

Attached are a series of case studies highlighting our concerns. These include cases where the Housing Authority has made an application for termination of the tenancy despite:

- the allegations arising from circumstances of domestic violence
- the opposition of DCPFS,
- the rectification of underlying issues and engagement of community services to sustain a tenancy,
- the appointment of a guardian where a tenant has no capacity to manage their own affairs,
- a tenant being repeatedly hospitalised for deteriorating mental health, and where allegations relate to periods of psychosis.

We are increasingly concerned that the Housing Authority is making termination applications in circumstance which do not justify termination, and are not in the public interest. Some examples of this include rent arrears that can be paid back with a plan, social issues which can be better managed with support services, and property standards issues which are reflective of a family in crisis, which will not be assisted by eviction to homelessness.

## Recommendation for moratorium on evictions

We urge that you impose an immediate moratorium on evictions from public housing in order for you to be able to review the current practices and provide direction to the Housing Authority for immediate reforms.

## Recommendations with respect to Discretion

We understand that Minister Buswell introduced restrictions on discretionary decision making when introducing the three strikes policy. We understand this reserved the discretion to settle Court proceedings (with any outcome other than a termination of the tenancy) to the General Manager of Service Delivery or CEO level. Previously this discretion sat with Regional Managers, and it was common for tenant advocates across the state to be able to seek practical resolutions for the underlying issues in a tenancy, and reach reasonable settlement agreements with Regional Managers. Now the Housing Authority is much more likely to persist with litigation and advises the Court that the staff do not have discretion to negotiate or settle the matter, despite reasonable proposals from the tenant advocate. In this respect, the Housing Authority fails to comply with the

statutory objectives of the 'minor case stream' of the Magistrates Court, which is *conciliation*, and in our view falls short of the standards expected of a model litigant.

We recommend reinstating the discretion of Regional Managers to withdraw termination applications, so that Housing Authority staff can work to implement practical strategies to sustain tenancies. This may require amendment to the delegations policy, and to the disruptive behavior policy to indicate factors which must be considered and should give rise to discretion, before strikes are issued or termination procedures commenced.

### Recommendations with respect to DV and Mental health screening

It is imperative that the Housing Authority adopts policies and trains staff to be able to identify domestic violence cases, and to then screen these matters into a 'support track' rather than an 'evictions track'. The Disruptive Behavior Management Unit admits that they struggle to discern the difference between 'disruptive behaviour' and 'domestic violence' (or as they put it the difference between DB and DV),. This requires urgent rectification, as domestic violence cases require an appropriate response, not eviction proceedings. It is crucial that women and children do not face eviction from public housing as a result of being victims of domestic violence. We hold serious concern that the current approach of the DBMU effectively 'blames the victim' for the violence.

The Housing Authority should adopt policies and train staff to identify cases involving serious mental illness impacting on a tenant's capacity to sustain a tenancy. Again, these cases need to be referred to a support track rather than an evictions track. The Housing Authority should seek tenant's consent to work with their mental health support workers, and then should work collaboratively with these services - this means notifying health providers when the Housing Authority is investigating complaints, and seeking support to address a tenant's behaviour, rather than commencing termination proceedings.

### Recommendations with respect to eviction of children

We recommend that you urgently seek a report from the Housing Authority detailing the number of children evicted from public housing, and to seek a breakdown to include the number of Aboriginal children evicted from public housing.

Members of Parliament have previously sought this information through questions in parliament<sup>1</sup>, where the then Minister Holt refused to provide the information to Parliament citing that "The Department does not readily collate this data, and provision of the detailed information sought would require considerable research diverting staff from their normal duties." The Housing Authority has also resisted FOI applications seeking information about children being evicted from public housing.

Housing Authority applications for housing and annual rental assessments require tenants to provide details of children living in the property. It is true that some tenants have more children living in their house, due to changing family circumstances, than reflected on their annual assessment. However, the data held by the Housing Authority would provide a useful starting point for understanding the number of children evicted from public housing. We also understand that the Housing Authority collects data about

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<sup>1</sup> Hon Lynn MacLaren 19 March 2015 Extra from Hansard p1839b Question 2618



Aboriginality on a voluntary basis, so while this is not conclusive, it again provides a useful starting point for an understanding on the number of Aboriginal children evicted to homelessness.

As an immediate step we recommend that the Housing Authority not proceed with a termination application or eviction where the DCPFS advises that they are working with the family and that the current housing is important for the children's protection and care, and similarly where the DCPFS advises that they have not previously engaged with the family and have not identified child protection concerns, but would be concerned that eviction would put the children at risk. Homelessness is a serious risk factor for children being taken into state care, and a leading cause of babies being apprehended at birth, in families who otherwise have protective parenting skills.

### Recommendations for termination proceedings as a last resort

The Housing Authority adopts the rhetoric of using 'termination application as a last resort' but in our experience this is not the case. In many cases termination proceedings are brought without the Housing Authority making a referral to STEP or seeking to engage with any other community support services, and without adequately identifying the underlying issues (like domestic violence or mental illness) which are impacting on the tenancy. Rather than using termination application as a last resort, we believe that the Housing Authority frequently uses termination applications as a mechanism to seek compliance from a tenant – for example to seek rectification of property standards issues.

The process of being threatened with eviction is extremely stressful, and often causes tenants to fear returning to homelessness, and fear having their children taken into care. Many public housing tenants are already dealing with recovery from trauma, crisis in their extended family, issues with children's engagement with school or courts and a range of serious mental and physical health issues. The 'big stick' approach is counter productive and does nothing to improve a tenant's capacity to meet their tenancy obligations, but rather risks pushing people beyond their capacity to cope.

We recommend that termination applications are only used as a last resort, after:

- referral to support services,
- attempts at collaborative work with community services, and
- an analysis of 'whole of government cost' demonstrates that the eviction is in the public interest. This analysis requires some consideration of the likely impact on the community of the tenant and family being evicted from public housing.

A 'last resort' policy may best be implemented by setting thresholds in policy to prevent termination applications being made for debts below set amounts, and for property standards issues which are not impacting on community health or safety, and for 'disruptive behaviour' which does not involve danger of serious injury to neighbours. These issues still require an appropriate management response from the Housing Authority, but this response should be targeted at supporting the tenant to sustain the tenancy, rather than seeking eviction. We are keen to work with the Housing Authority to assist in developing effective practical early intervention and prevention strategies to address these issues which do not justify termination.

## Recommendations to limit without grounds terminations

We are concerned that the Housing Authority is increasing the use of 60 day ‘without grounds’ terminations<sup>2</sup> to end periodic tenancies, and the use of fixed term tenancies where the Housing Authority can refuse to renew the tenancy without needing to prove any grounds. The legislation provides for a mechanism (in section 75A) for the court to decide whether the behaviour of a tenant justifies termination of the tenancy agreement. The parliamentary discussion is peppered with statements to the effect that section 75A will provide for a “transparent process for dealing with serious or sustained behaviour” and “an important step in applying practically our three strikes antisocial behaviour policy”. We are concerned that the Housing Authority’s use of without grounds terminations deliberately avoids the oversight of the Court, where many Housing Authority termination applications have been dismissed, as the Authority has failed to demonstrate that the termination is justified (in accordance with the tests under s75A or s71 of the RTA).

Particularly while the Housing Authority does not have effective practices to identify domestic violence and mental illness and respond appropriately to these cases, we hold very serious concern about the use of fixed term tenancies or s64 without grounds terminations. Given the substantial power imbalance between public housing tenants and the Housing Authority, and the serious consequences of eviction to homelessness, it is appropriate for tenants to be entitled to the protection of oversight of the Court in termination of tenancies.

We recommend that the Housing Authority adopt an approach of only seeking termination orders in cases where they assess they have a strong case for proving that the termination is justified. This requires a merits assessment of the case against the *Residential Tenancies Act* and relevant case law, rather than what appears to occur currently, which seems to be an unfortunate preference for the Housing Authority’s policy over the legislation.

## Advice and advocacy for tenants

In 2014 the Housing Authority ceased funding Aboriginal tenant advocacy services. This cut has severely impacted the availability of services, with the result that many families face eviction to homelessness without advice or representation. In January 2017 the Department of Commerce reduced funding to the Tenancy Network by approximately 25%<sup>3</sup>, and this has substantially reduced access to representation services in particular. Faced with fronting court on their own, tenants often don’t attend court and termination orders are routinely made in their absence without due consideration of the tenants circumstances.

We recommend that the Housing Authority engage in ‘strong families<sup>4</sup>’ style round table

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<sup>2</sup> Section 64 without grounds termination pursuant to Residential Tenancies Act WA 1987

<sup>3</sup> The Tenancy Network is funded by the Department of Commerce from the interest on the bonds held by the Bond Administrator. The pro longer period of low interest rates has impacted on the funds available for the program.

<sup>4</sup> Strong Families is a program run through the DCPFS, which involves a roundtable of government departments and community organisations working with a family, to agree a shared case plan. The roundtable ensures that the services are working together, that the family isn’t left with critical gaps in services, and the service providers hold

negotiations with support services and relevant departments before evicting children from public housing. Only where coordinated support services fail should the Housing Authority take steps to terminate a tenancy and evict children to homelessness. Previous Housing Ministers were fond of stating that public housing tenants are adults, who make choices. While this is true, the government has a duty to our community's most vulnerable children to prevent childhood homelessness, and to foster a culture of protecting the human rights of the child. While there is a cost in facilitating 'strong families' style Roundtable meetings, this is unlikely to be greater than the current expense of litigating termination applications through the Magistrates Court. Redirection of these resources to achieve the positive outcome of sustaining tenancies would be a far greater benefit across government and for the whole community, than the current significant funds expended seeking the poor public outcome of eviction to homelessness, with the high resulting costs to child protection, education, health, policing and corrections departments. The cost of homelessness to government is well documented<sup>5</sup>, and is best considered from a whole of government approach.

### Effective use of public funds

The network of tenant advocates is funded by the Department of Commerce, from the interest on bonds held by the Bond Administrator. The Magistrates Court also receives funding from this source to run the residential tenancy lists. The sharp increase in the number and complexity of cases litigated by the Housing Authority under the years of 'three strikes', means that the Court seeks higher levels of funding from the account. This in turn reduces the pool of funds available for the tenant advocates services.

This high cost of litigation can be radically reduced with the introduction of practical approaches within the Housing Authority to work to sustain tenancies rather than seek eviction so readily.

### Recent progress at the Housing Authority

I note that of late there has been a shift in rhetoric from the Housing Authority, away from the old language of being a 'landlord of last resort' focused on bricks and mortar 'assets management', to a new approach that recognises the importance of housing for tenants' wellbeing and outcomes in life, and that housing is best considered part of the social service mix. I commend Director of Social Housing Policy, Stuart Clarke, for his work in this area, as statements of this shift have been a cause for much optimism from our sector. In our experience, this shift in rhetoric is yet to impact the operational activity of the Housing Authority on the ground.

We have heard limited information about new proposed "introductory tenancies", but we are optimistic that an approach of identifying tenants' need at the beginning of a tenancy

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each other accountable for delivering the agreed services. This approach would go some way to addressing the Housing Authority's concern that social services withdraw from supporting a family once housing is provided, which may set a family up to fail if they need support to be able to effectively sustain a tenancy.

<sup>5</sup> <http://www.csi.edu.au/research/project/cost-of-youth-homelessness/>  
<http://www.csi.edu.au/news/media-release-stable-housing-will-save-australia-millions/>  
[http://www.csi.edu.au/media/uploads/AHURI\\_Final\\_Report\\_No265\\_What-are-the-health-social-and-economic-benefi...\\_2edQlWr.pdf](http://www.csi.edu.au/media/uploads/AHURI_Final_Report_No265_What-are-the-health-social-and-economic-benefi..._2edQlWr.pdf)

and proactively engaging social services to support tenants to sustain the rental is a very positive new direction. We remain concerned about the use of fixed term tenancies, and would recommend that periodic tenancies with a 12 month review process could best achieve this new approach.

Thank you for your attention to these important issues, and we look forward to working with you as the Minister for Housing. I am available on (direct line) [REDACTED] or [REDACTED] to arrange a meeting or to seek further information.

Yours sincerely,

Kate Davis  
Principal Solicitor, Tenancy WA

**Encl: Case Studies**