

Response to the NSW Department of Family & Community Services Consultation Paper

on protections for residents of long term supported group accommodation in NSW

March 2018





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Please find attached Western Sydney Community Forum's submission to the consultation paper on the protections for residents of long term supported group accommodation in NSW, released in January 2018.

Western Sydney Community Forum has reviewed the consultation paper and after research and consultation, have developed a series of recommendations that would enhance protections for people with disability in supported group accommodation.

Thank you for providing the opportunity to make a submission and we look forward to the final paper being provided.

If you require further information, please do not hesitate to contact Kathryn Hammond, Manager Policy and Programs, on kathryn.hammond@wscf.org.au or 9687 9669.

Yours sincerely,

Billie Sankovic
Chief Executive

Introduction

Background

In January 2018, the NSW Department of Family and Community Services released the consultation paper: Protections for Residents of Long Term Supported Group Accommodation in NSW. The aim of the paper was to engage with people with disability who are residents in supported accommodation, their families and carers, service providers and other stakeholders; to ensure that people with disability living in group homes have rights and protections as private rental tenants and boarding house residents, and to have these rights and protections set out in legislation.

The current legislated protections for people in rented accommodation do not apply to people with disability living in supported group accommodation.

While there is no clear data on the number of people with disability, the 2016 Australian Bureau of Statistics Census data indicated that over 129,000 people in Western Sydney need assistance with core activities. This represents 5.6 percent of the region's population.¹

The NSW Department of Family and Community Services estimate 6000² people with disability live in group homes across NSW.

Article 28 of the United Nations Convention of the Rights of Persons with Disabilities highlights the right for an adequate standard of living and social protection. Clause 1 specifically outlines that people with disability have a right to “ an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability”. This statement forms the basis of Western Sydney Community Forum's submission to the consultation paper.

¹ Source profile. i.d.

² FACS Consultation Paper: Protections for Residents of Long Term Supported Accommodation in NSW, January 2018.

Introduction

Western Sydney Community Forum

Western Sydney Community Forum have led and shaped social policy and service delivery across Greater Western Sydney for over 30 years. As a regional peak, we champion solutions that sustain community resilience, health and wellbeing, and work with community organisations, join with business and partner with government across all levels and services.

This submission is informed by ongoing work with our membership base, the communities of Greater Western Sydney, consultations at local Community Care Forums with service providers, and individual consultations with specialty disability accommodation and supported independent living service providers across the region. The submission provides a series of key recommendations to enhance tenancy rights and protections for people with disability across the proposed policy positions.

Recommendations

Recommendation 1:

That the tenancy rights of a person with disability be enshrined in legislation and that this legislation builds on current tenancy systems.

All new legislation should be underpinned by the UN Convention on the Rights of Persons with Disabilities; and in that capacity, ensure that processes and guidelines resulting from this legislation do not unduly disadvantage people with disability.

Recommendation 2:

That the Tenant Advocacy and Advice Program in the NSW Office of Fair Trading be expanded to include positions that specialise in the disability sector.

People with disability ought to have access to information about their tenancy rights and obligations. People with disability should also have access to support to make complaints about landlords and tenancy agreements.

Recommendation 3:

That the legislation upholds the right of people with disability to housing; and creates mechanisms where all people with disability have a housing provider of 'last resort'.

Consultations with service providers highlighted the complexity and challenges in ensuring that residents with persistent, disruptive behaviors had access to housing. Two key considerations emerged. Firstly, the possibility of roommates evicting residents with persistent and disruption behaviours from housing. Secondly, the risk of housing providers choosing not to service these individuals due to the difficulty of finding roommates.

“ (We are) concerned that clients with challenges are going to get pushed out of their current accommodation because the other participants in the unit don't want to put up with their behaviors any longer. The other concern is participants with behaviors of concern who are now searching for a placement will not be considered by organisations. To us this is a concern because often the Support Co-ordination funding was provided initially to find accommodation for the participant and if no organisation is willing to take the client for any of their vacancies it falls back to the worker to come up with short term options which are often less than ideal. (Support Coordinator Provider)”

Recommendation 4:

- [a] That a copy of any agreements be provided in plain English/easy read to the person with disability and to their nominated advocate or substitute decision maker.**
- [b] These agreements should be standardised; so as to ensure that it covers all legislative requirements and be developed in consultation with the Specialist Disability Accommodation (SDA) sector.**

There is a pressing need for written accommodation agreements. Consultations with service providers highlighted the need of people with disability and their advocates requiring support to understand the content of rental agreements. Written accommodation agreements which are user friendly ensure that the rights of people with disability are enhanced and protected.

“These are large contracts...who is going to read them? How will the client understand? What if they don’t have family to help them?” (SDA and Supported Employment Provider).

Recommendation 5:

- [a] That a bond be collected and held with the NSW Office of Fair Trading and that state funded financial assistance be available for eligible persons.**
- [b] That a bond can be paid in installments and that all protections for people with disability are in line with current tenancy legislation.**

The need for bond payments was raised by accommodation providers in order to assist in payment for repairs at the end of lease periods, where required. Affordability and capacity to pay a bond however must be considered to ensure that people with disability are not disadvantaged.

Recommendation 6:

- [a] That all rights and responsibilities of tenancy is conveyed in a manner that is accessible and that all correspondence given to people with disability and their advocates is in plain English.**
- [b] That information about tenancy assistance is provided in plain English, particularly about community legal centres and the tenancy advocate and advice program.**

It is important to ensure that people with disability have an understanding of their rights and responsibilities as a tenant. Consultations highlighted that in some instances, people with disability and or their advocate were not aware of support services available to them or access to information on these services was not available or provided.

Recommendation 7:

- [a] That the formula outlined in the technical paper is used in the legislative implementation guidelines.**
- [b] Where the supported disability accommodation provider is also the supported independent living service provider, the guidelines allow for the utility and maintenance fees to be charged separately to food and other living costs.**

Consultations indicate that the manner in which utilities are paid and charged to specialty disability accommodation residents is dependent on the perceived capacity of the residents within the facility and drop in services. This situation is open to conflicts of interest which could disadvantage the person with disability.

“We charge a lodging fee for our residents in group homes. This covers the cost of their food, utilities and house maintenance. However, for our ‘drop in’ clients sometimes we pay their utilities out of their wages, especially when they forget to pay their bills and the company contacts us. (SDA and Employment Provider)”

Recommendation 8:

That further consultation be undertaken with people with disability and their advocates, and supported disability accommodation providers on how the right to quiet enjoyment may be implemented in group housing; and that the right to quiet enjoyment be legislated after that time.

Supported disability accommodation providers advised that some have purpose-built housing which allows residents to have time on their own and away from other residents or with their visitors. However, others have expressed concern that if this right was legislated, the unintended consequence would be that residents with persistent noisy behaviors may lose their housing.

“Our houses are designed with two living areas, so our residents can have privacy when they have visitors or be away from the rest of the group. (SDA and Supported Employment Provider)”

“(We are) concerned that clients with challenges are going to get pushed out of their current accommodation because the other participants in the unit don’t want to put up with their behaviors any longer. (Support Coordinator)”

Recommendation 9:

That, where possible, supported accommodation providers accommodate companion animals and that the legislation reflect that where there is capacity to support animals, the accommodation provider do so.

Consultations with service providers highlighted that this issue was complex but important. Supported independent living service provider however could find it challenging to accommodate animal care for clients with high support requirements.

“It would be challenging for us to get staff that were willing to look after companion animals as well and we are not sure, even if we had the staff, if our residents could afford the costs. (SDA Provider and Supported Employment Provider)”

Recommendation 10:

That any changes to legislation should be included in all current relevant Acts rather than become a separate piece of legislation.

The benefit of integrating inclusive principles into existing legislation ensures that the rights of people with disability are enhanced and protected. It also reduces the risk of relying on advocates to enforce separate Acts.