

Submission to NSW Audit of Social Housing

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are experiencing marginalisation or disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

We actively collaborate and partner in our work and focus on finding practical solutions. We work across five focus areas:

Disability rights: challenging discrimination and making the NDIS fairer to ensure people with disability can participate equally in economic, social, cultural and political life.

Justice for First Nations people: challenging the systems that are causing ongoing harm to First Nations people, including through reforming the child protection system, tackling discriminatory policing and supporting truth-telling.

Homelessness: reducing homelessness and defending the rights of people experiencing homelessness through the Homeless Persons' Legal Service and StreetCare's lived experience advocacy.

Civil rights: defending the rights of people in prisons and detention, including asylum seekers, modernising legal protection against discrimination, raising the age of criminal responsibility to 14, advancing LGBTIQ+ equality and advocating for open and accountable government.

Energy and water justice: working for affordable and sustainable energy and water and promoting a just transition to a zero-carbon energy system.

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Recommendations

Recommendation 1

Homes NSW must commit to a significant, continued increase in social housing by delivering at least 5,000 new, additional social housing dwellings per year for the next 10 years.

Recommendation 2

Homes NSW should review the social housing application process to ensure it is as streamlined as possible.

Recommendation 3

Homes NSW should provide increased resourcing to SHSs and other support services to assist people applying to social housing. This resourcing should include funding to expand peer support roles.

Recommendation 4

Homes NSW should make time limits for completing an application for social housing more flexible, particularly where applicants must obtain supporting documents which are subject to the timeframes of other departments.

Recommendation 5

Homes NSW should consider allowing people to apply for social housing in anticipation of future need.

Recommendation 6

Homes NSW should ensure that the criteria for categorising former tenants is consistent across housing providers.

Recommendation 7

Homes NSW should review the use of negative tenant categorisations with the aim of removing restrictive criteria that can prevent people exiting homelessness.

Recommendation 8

Homes NSW should require all social housing providers to remove “less than satisfactory” and “unsatisfactory” former tenant categorisations after 3 years in line with protections for private tenants under the Residential Tenancies Act 2010 (NSW).

Recommendation 9

Homes NSW should ensure that applicants on the waitlist are linked in with immediate supports and kept updated on the status of their application.

Recommendation 10

Homes NSW should pause an application for social housing if the applicant does not respond, rather than removing it entirely. In the alternative, future applications should be back-dated to the initial application date.

Recommendation 11

Where listed, Homes NSW should attempt to contact an applicant's caseworker to reconfirm the applicant's wish to be on the social housing register.

Recommendation 12

Homes NSW should allow tenants at least one week to consider their offer for social housing.

Recommendation 13

Homes NSW should review the two-offer policy with a view to providing applicants greater choice and more suitable and appropriate housing offers that meet their needs.

Recommendation 14

Homes NSW should extend measures to repair and restore social housing properties to increase the stock of properties which are suitable for housing offers and ensure all tenants have a safe and liveable home.

Recommendation 15

Homes NSW should commit to building all new social housing dwellings to meet the gold level of the Liveable Housing Design Standards.

Recommendation 16

Homes NSW should improve its disability modifications policies to ensure that tenants have safe and accessible housing.

Recommendation 17

Homes NSW should offer longer tenancies to provide tenants with a greater sense of security and stability.

Recommendation 18

Homes NSW should ensure adequate resourcing of person-centred, wraparound supports for social housing tenants, including by reducing the portfolios of housing staff.

Recommendation 19

Homes NSW should support tenants and communities by investing in independent community development.

Recommendation 20

Homes NSW should review rent and eligibility policies for social housing to avoid disincentives for people to enter into employment.

Recommendation 21

Homes NSW should improve the opportunities for applicants to have their debt waived or written off.

Recommendation 22

Homes NSW should discontinue ongoing eligibility reviews for social housing tenants. In the alternative, particular tenants should be exempt from reviews, or the ongoing reviews should be less frequent.

Recommendation 23

Homes NSW should review communications practices with tenants to ensure they are effective and trauma-informed.

Introduction

The JEC runs the Homeless Persons' Legal Service (HPLS) which provides legal assistance to people experiencing or at risk of homelessness. We aim to address the structural causes of homelessness through our policy and advocacy work.

We also support two lived experience advisory groups – StreetCare and the Lived Experience Committee (LEC) for the *Housing and Mental Health Agreement 2022*. Members of these groups have lived experiences of homelessness, being a social housing tenant and living with a mental health condition.

Our submission was developed through consultation with StreetCare and LEC advocates. We also conducted academic research and gathered feedback from HPLS lawyers and caseworkers from Specialist Homelessness Services (SHSs) who support our clients.

1. The current state of social housing in NSW

Social housing is a crucial service which ensures that people who cannot access the private housing market can have a safe and secure home.

Providing social housing improves the wellbeing and quality of life of its tenants, including through improved health outcomes, greater social inclusion, and providing a sense of safety and security. In the 2021 National Social Housing Survey, 80.3% of social housing tenants in NSW reported that living in social housing delivered benefits across all domains of life, including economic, social and health benefits.¹

Alongside the positive outcomes for individuals, social housing also delivers wider social and economic benefits,² with savings for the health, mental health, and justice systems as well as for SHSs. It is estimated that for every \$1 invested, social and affordable housing will deliver \$2 in benefits.³

But the current system of social housing is under significant strain due to increasing rates of housing stress and homelessness⁴ and historic underinvestment in social housing. As of December 2024 there were 63,260 households on the waitlist for social housing in NSW. With the

¹ Australian Institute of Health and Welfare, *National Social Housing Survey: New South Wales* (20 October 2022) <https://www.aihw.gov.au/getmedia/ac291b22-6841-49b5-a0a0-41a231fcc8a/nshs_stateterritoryfactsheet_nsw.pdf.aspx>.

² Christian Nygaard, *Social and Affordable Housing as Social Infrastructure* (Final report, 7 November 2019) 5 <<https://www.communityhousing.com.au/wp-content/uploads/2019/11/Social-and-affordable-housing-as-social-infrastructure-FINAL.pdf?x33467>>.

³ SGC Economics and Planning, *Give Me Shelter: The Long-Term Costs of Underproviding Public, Social and Affordable Housing* (Report, June 2022) 22 <https://sgsep.com.au/assets/main/SGS-Economics-and-Planning_Give-Me-Shelter.pdf>.

⁴ Thomas Writer et al, *Social Housing in New South Wales: Report 2 Future Impact* (Report, February 2022) 7 <<https://assets.csi.edu.au/assets/research/Social-Housing-in-New-South-Wales-Report-2-Future-Impact.pdf>>.

severe shortage of housing, it is estimated that the number of applicants on the social housing waitlist will not decrease below 45,000 until 2039.⁵

A significant, continued increase in social housing is needed to meet current and future need for housing. We recommend an investment of at least 5000 new social homes every year for the next 10 years. Research suggests that this would house 16,190 people experiencing homelessness⁶ and cut the waitlist by 75%.⁷

Recommendation 1

Homes NSW must commit to a significant, continued increase in social housing by delivering at least 5,000 new, additional social housing dwellings per year for the next 10 years.

2. Application process

2.1 The challenges of the application process

The application process for social housing can be overwhelming, burdensome and duplicative. The form requires answering 31 questions and providing a minimum of four and up to 18 supporting documents. Caseworkers report that more documents are often requested after this initial application. The primary way to make an application is online, which can be inaccessible for many people.

Social housing is targeted towards those with the greatest need, but those that are in the greatest need will often be least able to navigate the application process.⁸ While some applicants may be in a position to complete the application independently, others find it extremely challenging. The barriers many applicants for social housing face include:

- difficulties with communication, including reading or writing;
- English as a second or third language;
- poor mental or physical health;
- limited or no access to the internet or technology;
- not having and difficulty obtaining identity documents;
- inability to afford the cost of obtaining supporting documentation such as psychologist reports; and
- being disengaged from services due to past negative experiences.

⁵ Thomas Writer et al, *Social Housing in New South Wales: Report 2 Future Impact* (Report, February 2022) 6 <<https://assets.csi.edu.au/assets/research/Social-Housing-in-New-South-Wales-Report-2-Future-Impact.pdf>>. Ibid 10.

⁷ The McKell Institute, *Security through Social Housing: The Need for a Generational Investment in NSW's Public Housing System* (Report, March 2024) 27 <<https://cms.vinnies.org.au/media/340p0rxi/mckell-institute-st-vincent-de-paul-society-nsw-security-through-social-housing-in-2024.pdf?path=340p0rxi%2Fmckell-institute-st-vincent-de-paul-society-nsw-security-through-social-housing-2024.pdf>>.

⁸ Kathleen Flanagan et al, *Understanding the Experience of Social Housing Pathways* (AHURI Final Report No. 324, January 2020) 46 <<https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI-Final-Report-324-Understanding-the-experience-of-social-housing-pathways.pdf>>.

In addition to these barriers, people who are applying for social housing are often in a time of crisis. They may be currently experiencing homelessness, struggling to pay rent in a private tenancy and foregoing other essentials, or be fleeing domestic violence. Lived experience advocates explain that an applicant is *'not at their best when they are applying for support'* and that the application process *'does not cater for someone in a disadvantaged position.'*

Recommendation 2

Homes NSW should review the social housing application process to ensure it is as streamlined as possible.

2.2 Greater support for applicants

We recommend greater support to assist people applying for social housing. Access to a support worker can significantly improve an applicant's housing outcomes.

Lived experience advocates report that they often started the application multiple times, but were unable to finish it unless they had support from an SHS or other support service.

Lived experience perspective

"I've applied for housing twice. Both times I was incredibly traumatised, overwhelmed and needed someone to help me. If I didn't have a caseworker, I might have dropped the ball. It took months to get all the application together."

"The process requires so much commitment that there were many times where I wanted to throw up my hands and walk away. I had to enlist the help of a caseworker. This takes away resourcing from someone who needs more comprehensive case management."

Support is especially vital in assisting an applicant to be placed on the priority list.⁹ Under the current policies, an applicant for priority housing must submit further evidence demonstrating their urgent need for housing which they cannot resolve independently, and which cannot be better addressed by other housing assistance options.

Being placed on the priority list is often essential if a person is to have a realistic chance of securing housing in the near future. For example, a recent study found that NSW priority applicants are housed seven to 14 times faster than general applicants.¹⁰ Many people on the general waitlist never receive an offer for social housing.

⁹ Fatemeh Aminpour et al, *Getting off the waiting list? Managing housing assistance provision in an era of intensifying social housing shortage* (AHURI Final Report no 422, June 2024) 34 <<https://www.ahuri.edu.au/sites/default/files/documents/2024-06/AHURI-Final-Report-422-Getting-off-the-waiting-list-Managing-housing-assistance-provision-in-an-era-of-intensifying-social-housing-shortage.pdf>>.

¹⁰ Hal Pawson and David Lilley, *Managing Access to Social Housing in Australia: Unpacking Policy Frameworks and Service Provision Outcomes* (Working Paper, May 2022) 5 <https://cityfutures.ada.unsw.edu.au/documents/685/Waithood_paper.pdf>.

The provision of more support for applicants should include access to peer workers, who can effectively help people navigate the emotional and administrative difficulties of applying for social housing.

Recommendation 3

Homes NSW should provide increased resourcing to SHSs and other support services to assist people applying to social housing. This resourcing should include funding to expand peer support roles.

2.3 Obtaining supporting documents within time frames

Additionally, applicants are often unable to obtain relevant documents in the time required for their application. In many cases, other government departments will have lengthier timeframes for providing these documents than the housing application itself. Many housing applications are removed when the applicant is unable to submit these supporting documents in time.

The time frame for submitting a housing application should be adjusted to recognise these external limitations.

Recommendation 4

Homes NSW should make time limits for completing an application for social housing more flexible, particularly where applicants must obtain supporting documents which are subject to the timeframes of other departments.

2.4 Registering for future need

The social housing register is designed to allow people to apply for housing assistance when they need it.

There is currently no mechanism for applicants to register for assistance in anticipation of future need. While it would not be suitable or practical to allow advance applications for housing in all circumstances, there may be some situations where it is appropriate.

Lived experience perspective

Doug applied for housing for the first time in 2014. He has a mental health diagnosis of bipolar disorder. He was planning to retire in 5 years when he reached the retirement age and knew that he would not be able to afford his current private rental. His application was not successful at this time because he was earning \$1.50 too much to qualify.

Doug applied another three times but was unsuccessful each time. Due to his low income, his options for accommodation were limited. To find somewhere affordable, Doug had to live in housing that did not meet his needs, including in a boarding house. He also lived in an apartment where he felt unsafe and was assaulted by a neighbour.

Doug was finally accepted onto the housing list in 2024. He has provided over 27 separate documents through this recent application process, including for the initial application and to

satisfy requests for additional information. He has not yet received an offer, but wonders whether, if he had been accepted at his first application, he would be safely housed by now.

Doug explains that he found it re-traumatising to have to apply for housing multiple times and be repeatedly rejected, despite his struggles to find safe, secure accommodation. He says that *“it’s as if I’m not being believed when I say I need help.”*

Doug is now an advocate for improving the support offered to people experiencing mental illness and housing insecurity. He believes that if you know your circumstances are going to change, you should be able to register for social housing in anticipation of future need.

The ability to apply for social housing in advance may also be beneficial for people experiencing domestic and family violence. The current shortage of affordable housing forces many women experiencing domestic violence to choose between homelessness, or staying with perpetrators and the risk of violence.¹¹ Caseworkers report that many women in abusive relationships are living private rentals with the perpetrator, often without being on the lease. When the perpetrator leaves the tenancy, the woman is left vulnerable to homelessness. If a woman in this situation could secure a future offer of social housing, this could allow her to safely leave a private tenancy.

Allowing advance registration of housing need would support a shift from a crisis-oriented to a preventative response. It could enable Homes NSW to better manage the demand for social housing, while also better supporting people to transition into social housing before they reach a point of crisis. This may also allow people to apply for housing when they are in a better position to complete the application requirements.

Recommendation 5

Homes NSW should consider allowing people to apply for social housing in anticipation of future need.

2.5 Applications from former social housing tenants

2.5.1 Criteria for categorisation

Former tenants of social housing are categorised by housing providers as satisfactory; less than satisfactory; unsatisfactory; or ineligible.¹² This categorisation will determine whether the former tenant must meet additional criteria to re-apply for social housing.¹³

For example, a tenant who has been evicted from social housing due to a breach of their tenancy agreement will be classified as an unsatisfactory former tenant. They are then required to sustain

¹¹ Equity Economics, *Nowhere to Go: The Benefits of Providing Long-term Social Housing to Women that have Experienced Domestic and Family Violence* (Report, July 2021) 4 <https://everybodyshome.com.au/wp-content/uploads/2022/03/EE_Women-Housing_Domestic-Violence_WEB_SINGLES-2-compressed.pdf>.

¹² NSW Department of Communities and Justice, *Tenancy Policy Supplement* (July 2024) <<https://www.facs.nsw.gov.au/housing/policies/tenancy-policy-supplement#satisfactory>>.

¹³ NSW Department of Communities and Justice, *Social Housing Eligibility and Allocations Policy Supplement* (July 2024) <<https://www.facs.nsw.gov.au/housing/policies/social-housing-eligibility-allocations-policy-supplement/chapters/sustain-a-successful-tenancy#scfft>>.

a tenancy in the private market for 6 months before they can re-apply for the NSW Housing Register. Other tenants can be required to repay their debt in full, or have been making regular repayments for 6 months, before their application will be considered.

While both Homes NSW and CHPs will use the same types of categories for former tenants, the criteria for these categories differs. Homes NSW bases the categorisation on multiple factors, including whether the former tenant owes money to the provider, what condition they left the property in and whether there were any issues with antisocial behaviour.

CHPs, on the other hand, may each have their own policy which they can use to determine categories of former tenants. It is not clear to what extent CHP policies differ from Homes NSW, as many are not publicly available. We are concerned that former CHP tenants may be blocked from re-applying to social housing where a former Homes NSW tenant may not be for the same tenancy history.

There must be standardisation in the categorisation of former tenants to ensure greater consistency, transparency and fairness across housing providers.

Recommendation 6

Homes NSW should ensure that the criteria for categorising former tenants is consistent across housing providers.

2.5.2 Negative categorisations as a barrier to housing

For former tenants, negative categorisations of less than satisfactory; unsatisfactory or ineligible often act as a barrier to re-housing and can prevent them from exiting homelessness.

Case study: impact of unsatisfactory former tenant classification

Matthew* was an HPLS client who was sleeping rough after having difficulties maintaining a tenancy. Matthew is on the Disability Support Pension and has a diagnosed mental illness, neurological disability and drug dependence. Matthew also suffers from arthritis and an acquired brain injury from a previous assault.

Matthew was classified as an unsatisfactory former tenant which meant he was required to complete 6 months in a private rental and pay off any debts before receiving any further assistance from DCJ.

HPLS worked with Matthew to challenge this classification – advocating that it was not realistic for Matthew to complete 6 months in a private rental due to his mental and physical health.

In their initial response, the position of Homes NSW was that even though the previous failed tenancies were not entirely the responsibility of Matthew, they would not override the requirements of the classification policy. They stated that it was within Matthews' capacity to demonstrate 6 months of maintaining a private tenancy. This failed to properly consider how a person facing considerable hardship could maintain six months in private accommodation rather than in Homes NSW accommodation.

After continued advocacy from HPLS, Homes NSW eventually agreed to void these requirements.

*Name has been changed to protect privacy.

It can be extremely challenging and sometimes unfeasible for people experiencing, or at risk of homelessness to repay a debt or complete six months in a private rental.

These barriers can place people under significant financial pressure and can entrench periods of homelessness.¹⁴ The additional requirements are also counter to the best practice Housing First principle that the provision of housing should not be contingent upon meeting certain conditions.¹⁵

Recommendation 7

Homes NSW should review the use of negative tenant categorisations with the aim of removing restrictive criteria that can prevent people exiting homelessness.

2.5.3 Reviewing categorisations

We also understand that housing providers do not automatically review former tenant classifications and these classifications can remain in place for many years. HPLS has had clients who have been excluded from social housing for decades due to their categorisation – resulting in extended homelessness. These categorisations should be routinely reviewed.

Recommendation 8

Homes NSW should require all social housing providers to remove “less than satisfactory” and “unsatisfactory” former tenant categorisations after 3 years in line with protections for private tenants under the Residential Tenancies Act 2010 (NSW).

2.6 Greater support for those on the waitlist

Once accepted onto the waitlist, there is little communication from Homes NSW to update the applicant on the status of their application.¹⁶ The experience of being on the waitlist is often one of significant stress as applicants face uncertainty over whether they will be housed, or when.¹⁷ In the meantime, they are often experiencing significant disadvantage.

Caseworkers report that vulnerable clients who are on the waitlist “*give up after years of waiting for housing*” and start to lose motivation and hope. Their resilience is often depleted and delays to

¹⁴ Homelessness NSW, *Debt Set Unfair: Social Housing, Debt and Homelessness* (Report, 2021) 14 <<https://homelessnessnsw.org.au/wp-content/uploads/2021/03/Oct-2016-Debt-Set-Unfair.pdf>>.

¹⁵ Hal Pawson and Chris Lilley, *Managing Access to Social Housing in Australia: Unpacking policy frameworks and service provision outcomes* (Working paper, May 2022) 46 <<https://apo.org.au/sites/default/files/resource-files/2022-05/apo-nid318018.pdf>>.

¹⁶ Alan Morris et al, *Waithood: The Experiences of Applying for and Waiting for Social Housing* (Report, 2023) 2 <<https://apo.org.au/sites/default/files/resource-files/2023-08/apo-nid323910.pdf>>.

¹⁷ Ibid 20.

being housed can risk further housing instability or homelessness. It may also lead to a decline in mental health or expose applicants to family and domestic violence.

Recommendation 9

Homes NSW should ensure that applicants on the waitlist are linked in with immediate supports and kept updated on the status of their application.

2.7 Periodic eligibility reviews

Once an application is accepted, Homes NSW will contact applicants on the waitlist to conduct periodic eligibility reviews. Applicants who do not respond to these reviews are removed from the housing register.¹⁸ If the applicant re-applies, the new application is not backdated to the original date of the previous application, unless Homes NSW is satisfied that there was an appropriate reason for failing to respond.¹⁹

In the experience of HPLS, there are many reasons why an applicant may not respond to periodic eligibility reviews. Clients may have changed phone numbers or addresses and not receive the correspondence because they are homeless. While applicants are required to inform Homes NSW of changes to their contact details, clients are often in a time of crisis, for example fleeing domestic violence. Applicants may also have complex needs and require support to complete the periodic eligibility review.

A lack of response to an eligibility review does not mean that an applicant is no longer in need of social housing. A more flexible approach is needed to ensure people on the waitlist are not removed unnecessarily. As discussed above, applying for social housing is an arduous process and re-applications should be avoided as much as possible.

Caseworkers who support clients applying for social housing also report that Homes NSW does not attempt to contact the caseworker to progress the periodic eligibility review, even if the caseworker is listed as a contact in the application. Caseworkers will often be in regular contact with the applicant, and may have more success than Homes NSW in reaching them. There should be greater efforts to contact an applicant's caseworker to decrease the number of applicants unnecessarily removed from the waitlist.

Recommendation 10

Homes NSW should pause an application for social housing if the applicant does not respond, rather than removing it entirely. In the alternative, future applications should be back-dated to the initial application date.

¹⁸ Hal Pawson and Chris Lilley, *Managing Access to Social Housing in Australia: Unpacking policy frameworks and service provision outcomes* (Working paper, May 2022) 68 <<https://apo.org.au/sites/default/files/resource-files/2022-05/apo-nid318018.pdf>>.

¹⁹ Alan Morris et al, *Waithood: The Experiences of Applying for and Waiting for Social Housing* (Report, 2023) 68 <<https://apo.org.au/sites/default/files/resource-files/2023-08/apo-nid323910.pdf>>.

Recommendation 11

Where listed, Homes NSW should attempt to contact an applicant's caseworker to reconfirm the applicant's wish to be on the social housing register.

3. Offers of social housing

3.1 Inspecting the property on offer

Applicants must inspect and decide on a property offer within two days of receiving it. This timeframe is overly restrictive. While we recognise that, due to the high demand for social housing, Homes NSW aims to minimise vacancies and address applicants' housing needs as quickly as possible, two days is not enough time for applicants to make such an important decision about where they will live.

Recommendation 12

Homes NSW should allow tenants at least one week to consider their offer for social housing.

3.2 What constitutes a reasonable offer

Applicants will receive a maximum of two offers. If an applicant rejects an offer, they are required to provide a letter and supporting documentation on the reason for rejecting it. The housing provider will then determine whether the offer was reasonable or not. An offer will be reasonable if it matches the required number of bedrooms, allocation zone, and the property features needed by the applicant.²⁰

If the applicant rejected a reasonable offer they have used up one of their two offers. An applicant will be removed from the housing register if they reject two reasonable offers.

Many HPLS clients have been offered a property which is unsuitable or not fit for purpose. The applicants are concerned that if they do not accept the offer, despite having valid reasons for doing so, it will nevertheless be deemed a reasonable offer, and their application will be suspended.

Lived experience perspective

"When first shown the building, I had to choose between a one-bedroom accessible unit on the first floor and a two-bedroom unit upstairs that was just big enough for me to manoeuvre my wheelchair around without scraping the walls and doorways.

Knowing my Mum's mental health issues, I picked the two-bedroom unit so that my brother would have a room of his own when we care for him (which happens more and more frequently now that we live here).

²⁰ NSW Department of Communities and Justice, *Matching and Offering a Property to a Client Policy* (December 2023) <<https://www.facs.nsw.gov.au/housing/policies/matching-offering-property-client-policy>>.

I love our home and I am endlessly grateful to have such a beautiful space filled with light and laughter and love - but it sometimes isn't functional and doesn't meet my accessibility needs, especially post-op.

With the recent thunderstorms we've had multiple blackouts and I've been essentially trapped in our home because the elevator won't work and I cannot safely navigate a full flight of stairs.

I don't regret my choice, and I would do it again in a heartbeat, but it's sad that there was a choice to begin with - because of the dire lack of accessible social housing properties across Australia."

The assessment of what constitutes a 'reasonable' offer of housing is often inconsistent and subject to different interpretations. Our lived experience advocates describe the offers as a 'take it or leave it' approach – a view which is also echoed by the Productivity Commission.²¹

Case study: unreasonable offers

Ellen* was a HPLS client who was placed on the priority housing list. Ellen has mental illness and limited mobility due to a knee injury.

Ellen was taken off the housing list after 8 years due to rejecting two housing offers. Housing found the offers were 'reasonable' despite Ellen providing support letters/medical evidence as to why the property did not meet her needs. This included that the property was located a significant walking distance from public transport and had too many stairs for Ellen to navigate.

HPLS assisted her to submit a First Tier Appeal which was successful. This meant that Ellen was put back on the housing register and eligible for a further two offers.

*Name has been changed to protect privacy.

Ensuring that a tenant is offered housing which best fits their needs will improve the likelihood that the applicant will be able to maintain their tenancy and safeguard their health and wellbeing. It may also reduce the number of people who are unsatisfied with their housing and seek a transfer.

We recognise that an effective allocation system requires an increase in housing stock. We therefore reiterate the need for continued investment in social housing.

Recommendation 13

Homes NSW should review the two-offer policy with a view to providing applicants greater choice and more suitable and appropriate housing offers that meet their needs.

²¹ Productivity Commission, *Introducing Competition and Informed User Choice into Human Service: Reforms to Human Services* (Inquiry report No. 85, October 2017) 180 <<https://www.pc.gov.au/inquiries/completed/human-services/reforms/report/human-services-reforms.pdf>>.

3.3 Quality of social housing

Much social housing stock is in dire need of repair and maintenance. The Productivity Commission's Report on Government Services found that in 2023, only 60% of NSW public housing meet agreed minimum standards.²² A dwelling is assessed as meeting minimum acceptable standards if it has at least four working facilities (for washing people, for washing clothes/bedding, for storing/preparing food, and for removing sewerage) and not more than two major structural problems.²³

In the experience of HPLS, the generally low quality of housing stock can result in applicants rejecting offers. In other circumstances, a tenant may initially accept a property which is not in a reasonable state. They will then later relinquish the tenancy because Homes NSW have not adequately responded to requests for maintenance and the poor living conditions are not viable.

We commend the commitment of Homes NSW to repair and restore 30,000 public homes to make them safe and liveable. However, these efforts must be extended.

Recommendation 14

Homes NSW should extend measures to repair and restore social housing properties to increase the stock of properties which are suitable for housing offers and ensure all tenants have a safe and liveable home.

3.4 Accessibility of housing

It is also crucial to ensure the accessibility of social housing properties given the significant demand for accessible housing. The Social Housing Assistance Commissioning Data Report ('SHACD Report') highlighted that 61% of priority or escalated²⁴ applicants had a need for modified and/or accessible housing.²⁵

Homes NSW should commit to building all new social housing dwellings to meet the gold level of the Liveable Housing Design (LHD) Standards. This is in line with recommendation 9, action 9.11 of the Independent Review into the National Disability Insurance Scheme.²⁶ In doing so, Homes NSW would make greater progress to delivering universally designed dwellings that support occupants' health and wellbeing while reducing maintenance and retrofitting costs in the long term.

²² Productivity Commission, *Report on Government Services* (Part G, January 2024) Section 18 Data Tables (18), Table 18A.41.

²³ Steering Committee for the Review of Government Service Provision, *Report on Government Services 2024: Housing and Homelessness* (Productivity Commission Report, January 2024) 30 <<https://www.pc.gov.au/ongoing/report-on-government-services/2024/housing-and-homelessness/rogs-2024-partg-overview-and-sections.pdf>>.

²⁴ Escalated applicants are existing tenants who have been approved for an escalated transfer or relocation.

²⁵ NSW Department of Communities and Justice, *NSW Social Housing Assistance Commissioning Data Report 2022/23* (Report 2023) 30.

²⁶ Department of Prime Minister and Cabinet, *Working together to deliver the NDIS – Independent Review into the National Disability Insurance Scheme* (Final Report, October 2023) 155 <<https://www.ndisreview.gov.au/sites/default/files/resource/download/working-together-ndis-review-final-report.pdf>>.

For existing properties that do not meet these standards, it is important that accessibility modifications are available to tenants. We are aware that in 2024 Homes NSW was reviewing its policies for reasonable adjustments to social housing properties. It is crucial that this work continues to ensure that properties are appropriately tailored to the tenant's accessibility needs.

Recommendation 15

Homes NSW should commit to building all new social housing dwellings to meet the gold level of the Liveable Housing Design Standards.

Recommendation 16

Homes NSW should improve its disability modifications policies to ensure that tenants have safe and accessible housing.

3.5 Length of tenancies

New tenancy agreements are for a fixed term of one, two, five or ten years.²⁷ In some cases, a shorter lease of six months will be offered for former tenants based on previous antisocial behaviour or because they were categorised as unsatisfactory or less than satisfactory.

Homes NSW will only offer five year leases where the client's housing and support needs are likely to continue over five years. They will offer a ten year lease where clients have ongoing housing and high support needs that are unlikely to decline.²⁸ Homes NSW also maintains continuous leases entered into before July 2005, but will not offer a continuous lease to new tenants.

While we understand that offering shorter leases may offer more flexibility for Homes NSW to manage properties, we note that exits from social housing remain low. According to the Productivity Commission, the major barrier to exiting social housing is the lack of affordable housing alternatives.²⁹

Moreover, social housing tenants may not have the capacity to exit social housing into the private rental market. Often, they lack the financial resources, employment stability, rental history, or simply the physical and mental capacity to exit towards the private rental market. These are often the same reasons they needed to access social housing in the first place.

²⁷ NSW Department of Communities and Justice, *Types and Lengths of Leases Policy* (July 2024) <<https://www.facs.nsw.gov.au/housing/policies/types-length-of-lease-policy>>.

²⁸ NSW Department of Communities and Justice, *Types and Lengths of Leases Policy* (July 2024) <<https://www.facs.nsw.gov.au/housing/policies/types-length-of-lease-policy>>.

²⁹ Productivity Commission, *In Need of Repair: The National Housing and Homelessness Agreement* (Study report, August 2022) 266 <<https://www.pc.gov.au/inquiries/completed/housing-homelessness/report/housing-homelessness.pdf>>.

We recommend that social housing tenants should be offered longer tenancies to provide a greater sense of stability and security.

Recommendation 17

Homes NSW should offer longer tenancies to provide tenants with a greater sense of security and stability.

4. Support programs and services for new social housing tenants

4.1 Challenges in sustaining a tenancy

Many social housing tenants will require support to maintain their tenancy. While being housed will likely improve the wellbeing of a tenant, housing alone will not always ensure the person's mental, physical and social needs are being met.

Lived experience perspective

Joanna* was living with her son at a social housing property. She was experiencing domestic violence and the perpetrator had keys to the property. Joanna had raised this issue with her client service officer at Homes NSW and was told that she should relinquish the property and reapply for social housing again.

Joanna did not wish to relinquish the tenancy. She instead applied for a transfer so that she could safely exit the relationship and have a new place to live. While waiting for a transfer, Joanna was living on the street and occasionally returning to the property to shower while the perpetrator was at work.

Joanna was eventually granted a transfer. She had one day to collect and move as many of her possessions as she could to the new property, as she was fearful of alerting the perpetrator that she was leaving.

This meant that Joanna was unable to take essential items, including a bed and important paperwork, while also leaving behind many sentimental belongings such as photos of her son.

She was then required by Homes NSW to pay \$3000 to clean up the property she had fled, despite informing the Department that she had left due to domestic violence. In Joanna's words, there was no understanding of why she had left her belongings behind. This \$3000 fine made it even more difficult for Joanna to afford to replace these essential household items and it took her years to pay off.

Joanna describes this experience as '*akin to being in a natural disaster*'. Her experience illustrates the importance of ongoing, trauma-informed support for tenants – including support to safely leave situations of domestic violence and to set up a new tenancy with essential household items.

*Name has been changed for privacy.

Historic underinvestment in social housing and the increasingly restricted eligibility for applicants has meant that only people with the greatest need are housed.³⁰ While it is appropriate to target support to those most in need, the impact of this approach is that a greater proportion of tenants in social housing have complex support needs.³¹

Tenants can often find the start of their tenancy particularly challenging. They may find it difficult to manage the financial obligations of the tenancy or to establish independent living skills. Our lived experience advocates also report that new social housing tenants can feel isolated and lonely in a new property because they have had to leave behind the connections they previously had in their community. These challenges can cause the tenant to breach their agreement or to abandon the property.

In 2022-23, the SHACD Report found that 8% of tenants exited negatively. A negative exit means that their tenancy ended due to a breach of the tenancy agreement including eviction or the abandonment of the property with no notice. Of the households which exited negatively, 33% exited within 24 months of their tenancy.³²

Tenants may also need support to navigate ongoing engagement with Homes NSW, such as the periodic review process or rental subsidy reviews. These review processes will occur throughout a person's tenancy, and a failure to properly respond to them can result in a tenancy breach. For example, if a tenant does not respond to a rental subsidy review, they may be charged market rate for rent, which they cannot afford. Failure to pay rent will then result in a breach of their agreement and, if the issue is not resolved, eviction.

4.2 Person-centred support

The 2022-23 SHACD Report identified that supporting households at risk of losing their social housing tenancy continues to be a priority for the NSW Government.³³

It is our experience that most tenants do not receive support to maintain their housing until they reach a point of crisis, such as when they breach their tenancy agreement. It is important that support is offered 'out of the shadow of tenancy termination' – meaning that tenants are encouraged to engage with services early on in their tenancy, not simply to avoid the threat of

³⁰ Rowland Atkinson and Keith Jacobs, *Public Housing in Australia: Stigma, Home and Opportunity* (Housing and Community Research Unit Paper, June 2008) 4 <<https://apo.org.au/sites/default/files/resource-files/2008-06/apo-nid311.pdf>>.

³¹ kylie valentine et al, *The Role of Housing Providers in Supporting Clients with Complex Needs* (AHURI Final Report no. 428, October 2024) 5 <<https://www.ahuri.edu.au/sites/default/files/documents/2024-10/AHURI-Final-Report-428-The-role-of-housing-providers-in-supporting-clients-with-complex-needs.pdf>>.

³² NSW Department of Communities and Justice, *NSW Social Housing Assistance Commissioning Data Report 2022/23* (Report 2023) 44.

³³ NSW Department of Communities and Justice, *NSW Social Housing Assistance Commissioning Data Report 2022/23* (Report 2023) 43.

eviction.³⁴ Offering support with the threat of eviction is not effective and will mostly result in clients disengaging.

To assist tenants to maintain their tenancy, housing providers should ensure the availability of person-centred supports which can empower tenants and build their capacity to address potential difficulties with their tenancy.³⁵ This could include assistance with budgeting and financial management, linking in tenants with social networks, or mental health support. Research suggests that providing wraparound services to a social housing tenant for at least 12 months significantly increases a tenant's chance of long-term housing success.³⁶

These supports can be delivered through long-term partnerships between housing providers and local support agencies,²³ including assertive outreach programs for critical support services such as mental health. Early intervention and responses to tenancy problems can prevent such problems becoming entrenched.

Unfortunately, client service officers do not have the capacity or the resources to provide sufficient support to social housing tenants. In our experience, Homes NSW client service officers have large portfolios which leads to staff burnout, high rates of turnover, and negative interactions between tenants and staff.³⁷ Smaller caseloads are needed to ensure more effective support for tenants.

Recommendation 18

Homes NSW should ensure adequate resourcing of person-centred, wraparound supports for social housing tenants, including by reducing the portfolios of housing staff.

4.3 Community and connection

Alongside the provision of supports, tenancy success is also supported by ongoing connections to communities.³⁸ Community development plays a vital role in encouraging social interaction and cohesion for tenants. This is most effective when carried out by external staff, rather than government staff. Where government staff are employed for community development, the role can often shift into tenancy management by default.

³⁴ Chris Martin et al, *Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families* (AHURI Final report no 314, June 2019) 66 <<https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI-Final-Report-314-Social-housing-legal-responses-to-crime-and-anti-social-behaviour-impacts-on-vulnerable-families.pdf>>.

³⁵ Megan Moskos et al, *'What Works' to Sustain Indigenous Tenancies In Australia* (AHURI Final Report No.374, March 2022) 4 <https://www.ahuri.edu.au/sites/default/files/documents/2022-02/AHURI-Final-Report-374-What-works-to-sustain-Indigenous-tenancies-in-Australia_1.pdf>.

³⁶ The McKell Institute, *Security through Social Housing: The Need for a Generational Investment in NSW's Public Housing System* (Report, March 2024) 14 <<https://cms.vinnies.org.au/media/340p0rxi/mckell-institute-st-vincent-de-paul-society-nsw-security-through-social-housing-2024.pdf?path=340p0rxi%2Fmckell-institute-st-vincent-de-paul-society-nsw-security-through-social-housing-2024.pdf>>.

³⁷ Kathleen Flanagan et al, *Understanding the Experience of Social Housing Pathways* (AHURI Final Report No. 324, January 2020) 63 <<https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI-Final-Report-324-Understanding-the-experience-of-social-housing-pathways.pdf>>.

³⁸ Ibid 47.

Recommendation 19

Homes NSW should support tenants and communities by investing in independent community development.

4.4 Rent and income eligibility

4.4.1 Work disincentives

A tenant's level of income will determine their rental subsidy, as well as their ongoing eligibility for social housing.

The low income eligibility for social housing means that a tenant must carefully manage any paid employment opportunities to ensure they are not exceeding the income threshold. This can discourage tenants to start paid work or increase their current earnings as they do not want to lose the stability and security provided by social housing.³⁹

Lived experience perspective

"As a youth worker at a community centre, I can only work fifteen hours a week before my wage (plus my disability support pension) throws me over the income limit.

Each fortnight is a careful juggling act, especially when I'm paid leave loading for the time I've taken off in the last eight weeks and my pension doesn't go down as much as expected when I report my income to Centrelink.

This arbitrary line drawn by bureaucrats is so stressful to navigate, as one fortnight I might cross over the threshold but not the next.

Especially when it isn't only myself impacted - there is also my partner and brother who would be deprived of a home if some paper pusher decided I'm no longer eligible for social housing.

Further, the community centre has just achieved charity status, which is going to increase my base hourly income as a youth worker and complicate things further.

The income eligibility criteria feels like a massive disincentive to work and contribute as a productive member of society, as I risk losing the nicest place we've ever lived in (and the first time we've experienced housing stability) so that I can gain work experience and actually put my community services degree to use to help others."

Moreover, social housing tenants may often be undertaking casual or intermittent employment, meaning their incomes fluctuate. This level of income is likely to be insufficient for a tenant to meet the costs of a private rental, but nevertheless the tenant may be at risk of losing their social

³⁹ Abigail Powell et al, *The Construction of Social Housing Pathways Across Australia* (AHURI Final Report No. 316, July 2019) 9 <<https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI-Final-Report-316-The-construction-of-social-housing-pathways-across-Australia.pdf>>.

housing tenancy due to this additional income.⁴⁰ As explained by AHURI, the challenges in sustaining a private tenancy mean that exits from social housing 'remain unthinkable for tenants, as well as practically unachievable.'⁴¹

Social housing tenants should be supported to transition out of social housing if, and when, they are able to rather than due to exceeding a specific income threshold.

4.4.2 Rental debt and affordability challenges

In the experience of HPLS, many social housing tenants are issued a termination notice as a result of rent arrears.

Although social housing rent is subsidised, the low income levels of social housing tenants mean that many still struggle to meet the cost of rent and other essentials. The NSW Council for Social Services report that in 2023, 66% of public and community tenants were experiencing housing stress – an increase from 60% in 2022.⁴² This lack of affordability places many tenants at risk of arrears.

We note that social housing tenants are, by definition, on low incomes and often have little to no capacity to repay debts owing. Debts often arise where the tenant has their income support payments restricted by Centrelink. They can also occur in situations of domestic and family violence, for example where a person is forced to leave a social housing property without the required notice. Decisions made by Homes NSW on whether or not to waive social housing debt are inconsistent and not subject to clear criteria.

Recommendation 20

Homes NSW should review rent and eligibility policies for social housing to avoid disincentives for people to enter into employment.

Recommendation 21

Homes NSW should improve the opportunities for applicants to have their debt waived or written off.

4.5 Ongoing eligibility reviews

We recommend that the ongoing review of tenancy for existing tenants be discontinued. The current approach places significant pressure on tenants who are fearful of having their tenancies ended. It is also a resource-intensive process for Homes NSW that, from the experience of HPLS, typically finds that the tenant is still eligible. Alternatively, Homes NSW should make the

⁴⁰ Kathleen Flanagan et al, *Understanding the Experience of Social Housing Pathways* (AHURI Final Report No. 324, January 2020) 45 <<https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI-Final-Report-324-Understanding-the-experience-of-social-housing-pathways.pdf>>.

⁴¹ Ibid 38.

⁴² NSW Council of Social Service, *Barely Hanging On: The Cost-of-Living Crisis in NSW* (Report, August 2023) 58 <https://www.ncoss.org.au/wp-content/uploads/2023/08/NCOSS_CostOfLiving2023_FINAL.pdf>.

reviews less frequent or exempt particular tenants from ongoing reviews – such as those with a long-term health condition.

Recommendation 22

Homes NSW should discontinue ongoing eligibility reviews for social housing tenants. In the alternative, particular tenants should be exempt from reviews or the ongoing reviews should be less frequent.

4.6 Reforming communications with tenants

For tenants of social housing, written communication from Homes NSW is often perceived as accusatory, confrontational, or shaming. This style of communication can cause tenants to disengage, making it potentially ineffective or counterproductive.

In some cases, this results in tenants walking away from tenancies as they feel unable to resolve tenancy issues. Improving these communications can support the tenant to maintain their housing.

Recommendation 23

Homes NSW should review communications practices with tenants to ensure they are effective and trauma-informed.