

**Submission to the NSW Legislative Council
Select Committee on Mental Health
Inquiry into and Report on Mental Health Services in
NSW**

From Shelter NSW

April, 2002

About Shelter NSW

Shelter NSW is a community-based, Statewide, peak housing body, which aims to advance the housing interests of low-income and disadvantaged people in NSW. It is also part of a national network of Shelter organisations in each State and Territory, and is a constituent member of National Shelter.

Shelter NSW was established in 1975, and was involved in advocacy and campaigning in support of public housing and in the development of community-based alternatives like housing co-operatives (not lending agencies, but groups of people interested in co-operative housing living and management).

Shelter's vision is to work for a just and equitable housing system, where housing for all is a right, not a privilege.

Shelter's role is to:

- Promote a co-ordinated response within the community sector to housing issues affecting housing low-income and disadvantaged people;
- Work with and influence government and relevant community sector organisations so that they develop housing policies and programs which meet the needs of low-income and disadvantaged people;
- Increase public awareness of housing issues and support for adequate and sustainable responses;
- Research and develop responses to housing issues;
- Provide quality information, assistance and support to the community sector, members and other stakeholders.

Shelter has 119 organisational members and 46 individual members. Organisational membership includes specific-interest peak groups (e.g., tenants, youth, community housing, etc.), a wide range of housing providers, public and private tenant groups, local government councils, regional housing bodies, and community services agencies.

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Shelter NSW's Interest in Mental Health

Shelter NSW will confine itself to term of reference (d): community participation in, and integration of, mental health services.

Our interest is in adequate, affordable and secure housing for those with mental illnesses and the integrated delivery of support services that allow tenancies to be maintained.

Problems for those living in public housing and living with a mental illness

The policy of tightly targeting public housing support to only the most needy has meant that additional strain has been placed on the housing estates due to disadvantaged people being concentrated in these estates without adequate support. Increasingly, those with complex needs on low incomes are housed by the Department of Housing (DoH) or by community housing providers.

Mental health is an issue for residents of housing estates since a person with a mental illness may suffer stigma and especially if undiagnosed or unsupported, or subject to the opprobrium of neighbours, find themselves being the subject of complaints under the DoH's 'good neighbour policy'.

Those living with mental illness may engage in anti-social behaviour or become forgetful from time to time and fall into rent arrears. Ideally, they should receive support during times of episodic illness or hospitalisation and assistance in meeting their obligations to the DoH. But all too often these supports are not available or are dependent on the understanding of a particular client service officer or mental health professional. Conflict between neighbours is a reality on many estates (especially in high-density housing situations where people live in close proximity). Shelter NSW is sympathetic to complaints from tenants seeking quiet enjoyment as well as the rights of the most disadvantaged to enjoy secure affordable housing.

Shelter NSW is concerned with the integration of housing and support services for those people with mental illnesses. Anecdotally, our constituents tell us that there is a shortfall in well-integrated services for people with complex needs and a basic lack of affordable housing. For those exiting the crisis accommodation or supported accommodation system, there need to be long-term, stable and supported accommodation options available so that people can receive adequate care and realise a more stable life.

While not opposing the Richmond Report's recommendations regarding deinstitutionalisation, it is important to ensure that support services based in the community are adequate and that in-patient care, when required, is available for as long as the person needs it. For homeless or itinerant persons with a mental illness, early discharge can often mean an unwelcome return to homelessness or insecure living conditions such as those of boarding houses.

Homelessness and mental health

It is well known that there is a link between homelessness and mental health. Homeless persons are much more likely than other persons to have a mental illness. For example, an investigation of the homeless population of inner Sydney indicated

- that almost 75% of the sample were living with a mental illness (Hodder, Teeson and Burhrich, 1997).

The report *Accommodating Homeless Young People with Mental Health Issues* (1999) found

- that over 50% of young people accessing housing and homelessness agencies had one or more mental health issues.

The factors of unemployment, poverty and mental health are interrelated when it comes to homelessness. Those who are on very low incomes and have mental illnesses are more likely to be homeless or in housing stress (paying more than 30% of their income in rent) than those without a mental illness. Therefore, affordable housing provision with appropriate support is a key issue.

Supply of housing and support services to low income people with a mental illness

Public Housing

At present, there are over 96,000 households on the NSW Department of Housing's waiting list. A significant number of current applicants (although we cannot produce exact figures since applicants do not have to divulge information about any specific illness if they do not want to) would have a mental illness. Further to this, a significant number of sitting Department of Housing tenants would also have a mental illness. The same is also true of community housing tenants.

The Department of Housing was unable to answer our inquiries about (a) the number of clients who indicated they were receiving treatment for a mental illness or (b) the number of clients covered by Joint Service Agreements. The central office did not have access to statistics.

There are Joint Service Agreements (where local Department of Housing offices and other agencies co-operate and agree to provide support for clients) in place. These work well in some areas, depending on local circumstances, and often, the commitment or competency of key individuals. However, application of these policies is patchy across NSW. Shelter NSW's constituents who work in the field continually tell us that although the policies exist on paper, the situation as it really is, does not match up with the rhetoric of integrated support, because the level of support required is either not available at all in some areas, or in poor supply.

Supported Group Homes and Boarding Houses

For some people group homes or boarding house style accommodation, combined with support services, can result in sustainable tenancies. However, this should be a genuine choice people may freely make rather than a cheap 'solution' which fits all circumstances and creates 'ghettos'. The NSW Minister for Housing recently made recommendations to

increase the supply of flexible supported accommodation, which is something that Shelter NSW has welcomed. Such accommodation may be suited to assisting some people with mental illnesses, where they preferred such living arrangements.

The need for integrated programs

In other States integrated programs exist, for example, the Housing and Support Program (HASP) in Victoria incorporates support and housing services. It should be pointed out that this program, while successful, is also limited in scale.

Characteristics of the HASP program (Victoria)

- The client must agree to remain engaged with a specific Psychiatric Disability Support Service
- 10 clients are assigned to each PDSS worker
- 30 different PDSSs are involved in the program
- Each PDSS service is allocated a certain number of houses by the Victorian Office of Housing
- The PDSS nominates prospective tenants to the Office of Housing
- The Office of Housing checks their eligibility against their own criteria for housing assistance
- If the client meets eligibility criteria, housing is allocated
- A specialist organisation, the Supported Housing Development Foundation, manages the properties on behalf of the Office of Housing
- The PDSS provides ongoing tailored support to the client and co-operates with the Office of Housing staff
- About 700 people were housed through the HASP in Victoria in 1995¹.

This program has been evaluated and was found to provide positive outcomes to tenants – ie tenants maintain tenancies and gain greater stability in their lives².

Shelter NSW would support an integrated approach to providing housing and support services to people with mental illnesses. However, this means committing resources. As the authors of an AHURI report state:

adequate levels of basic housing and support services are a fundamental pre-requisite for effective co-ordination between housing and support services³.

This is a basic point and one that Shelter NSW endorses. Such a view accords with the feedback from our constituent members - that the supply of both social and affordable housing and support services is currently inadequate. This is true not only for those who are homeless and live with mental illness but also for those currently housed in private, public and community housing and for low income people in general. Without ensuring the supply of secure and affordable housing and appropriate support, homeless people with mental illnesses will often be shunted from one short-term accommodation

¹ Australian Housing and Urban Research Institute, 'Linkages between housing and support - what is important from the perspective of people living with a mental illness' 2002.

<http://www.ahuri.edu.au/research/summary/project102.html>

² See Robson, 1995.

³ Australian Housing and Urban Research Institute, 'Linkages between housing and support - what is important from the perspective of people living with a mental illness' 2002.

<http://www.ahuri.edu.au/research/summary/project102.html>

situation to another, or move between boarding houses, the streets, hostels and other insecure forms of housing.

Dual diagnosis

Housing and support services should be available to those with dual diagnoses to avoid the referring back and forth that can occur where a person suffers from, for instance, a mental illness and in addition has a substance abuse problem. Such persons should receive appropriate treatment and appropriate housing. While some agencies currently have agreements in place (for example, Bankstown Mental Health Service and the Department of Ageing, Disability and Home care DADHC)⁴, these agreements do not overtly include housing (although clients may be referred to housing agencies by a mental health or DADHC case manager).

Shelter NSW also refers the Committee of Inquiry to the paper by Myree Harris and Colin Robinson, 'Proposal for a clinical trial of residential program to provide treatment and rehabilitation for people with a dual diagnosis of mental illness and substance abuse: request for a whole of government approach to this issue' (January 2002).

In the paper they advocate that a Mental Illness Substance Abuse program be initiated and

target the group with low prevalence psychiatric illnesses. These are people with severe mental illnesses: schizophrenia, bi-polar disorder and severe depression...the trial should target the most at risk group: those who have serious mental illness and substance abuse problems who are on the streets, in homeless shelters, insecurely housed, or about to leave jail.

An important component of this program would be the provision of long term, supported accommodation to ensure participants do not return to an unhealthy lifestyle⁵.

Shelter NSW recognises the problems associated with dual diagnosis and supports investigating the need for such a program.

Boarding Houses

For those who live in boarding houses currently, the lack of legislative protection means that they can be evicted with no notice at all. Boarding houses are not covered by the Residential Tenancies Act and boarders and lodgers are therefore not classified as 'tenants'. Boarders and lodgers, in licensed or unlicensed boarding houses, have **no access to the rights afforded to ordinary tenants** such as notice of termination of a tenancy, or the requirement for eviction to be approved by an independent Tribunal. Those with mental illnesses who are boarders or lodgers and are perceived by a landlord as troublesome can find themselves homeless with little or no notice. Tenant's groups

⁴ This example was suggested by People With Disabilities.

⁵ Harris RSJ and Robinson, January 2002: 5.

and the Boarders and Lodgers Action Group (BLAG) have been asking for legislation to be passed in NSW for many years now and the Government has made numerous promises. But so far, no legislation has been passed. BLAG has a Boarders Draft Bill prepared, and made mention of it in the BLAG submission to the Boarder Review in 1999. The NSW Government should fulfil its electoral promise and introduce such legislation. Further, boarding-house-style accommodation should be purchased or constructed by the Department of Housing, but may be better managed by community housing providers.

Case studies

To illustrate some of the practical issues, Shelter NSW sought advice from the network of non-government Tenants' Advice and Advocacy Services (TAAP) in NSW. The following accounts were written by tenancy workers from the Illawarra and Inner West Tenants' Advice and Advocacy Services.

The Tenants' Advice and Advocacy Program is funded by the Department of Fair Trading, and provides free tenancy advice and information to all tenants in private rental and social housing, and to residents of residential parks.

TAAP services conducted an indicative survey over one week (late 2000) aimed at gaining a clearer picture of the nature of clients using the services. Tenants were asked if they had a disability or any other health issue which could prevent them asserting their tenants' rights or prevent them from maintaining their tenancy. Around 15% of tenants statewide reported this to be the case and the service in the Illawarra had 44% of tenants nominate some form of disability as an impediment to resolving tenancy problems.

Illawarra Tenancy Advice and Advocacy Service

The Illawarra Legal Centre Tenants Service is based in Warrawong, south of Wollongong. The service boundary takes in the Wingecarribee, Illawarra, Kiama, Shellharbour, Shoulhaven, Eurobadalla, and Bega Valley Local Government Areas.

This area is characterised by declining industry and high unemployment; rapid housing development and growth areas on the coastal strips without accompanying support infrastructure; geographic isolation on coastal strips and Highlands due to limited transport and social services; significant populations from non English speaking countries; significant proportion of low income renters and public housing tenants, as well as residential park and temporary accommodation residents.

Case study 1

The tenant is a woman in her early thirties. She has lived in a two bedroom Department of Housing flat for three years. She is separated from her partner and has her children stay on weekends. She had a psychiatric episode that resulted in hospitalisation. The initial medical assessment suggested she could be in hospital for two to three months. The departmental workers wanted the woman to relinquish her government housing and be placed on a priority list for housing after being discharged. They would also provide

bond and rent assistance so she could take up a private rental premises until priority housing was available.

The tenant's father unsuccessfully sought to act on his daughter's behalf and prevent her being required to give up her flat. The tenant's father was hindered in his efforts by the Department of Housing, who believed they could act in the tenant's best interest. However, a hospital social worker facilitated the signing over of the flat to the department believing it would be in the tenant's interest.

Issues

- Should a tenant living with a debilitating illness that takes them temporarily away from their home, lose their home as a result?
- Is it reasonable to expect a person recovering from a serious illness to endure the stress of seeking and relocating into private rental accommodation?
- Is it likely, that in the context of increasingly restrictive criteria being used when applicants are seeking private rental, that a tenant recently discharged from a psychiatric unit would be successful in securing private rental?
- Should a patient of a hospital be asked to make important life decisions at their most vulnerable time and when they may not have the capacity for such decision making?
- Is there a conflict of interest when a government departmental worker seeks to repossess a property and at the same time claims to act in the interest of the tenant losing their current home?
- Who determines what role a parent or other close family member can play in protecting the rights of a person with a mental illness who may be at risk of losing their home?

Case study 2

The tenant is a man in his forties, renting a two-bedroom house with a private landlord. He chose the premises due to his need to have a quiet environment, few disturbances and be within walking distance of shops and services. The landlord is a private landlord with limited regard for his obligations under the Residential Tenancies Act. The landlord repeatedly visits the property to monitor its condition, do odd jobs and collect the rent. The visits increase and the tenant is badgered about minor maintenance issues. The tenant feels vulnerable to the landlord and decides to move out rather than assert his rights in the Tenancy Tribunal. Even with support from a tenancy worker, the tenant does not feel he has the stamina and well-being to take formal action. He leaves, incurring significant relocation costs and the stress of trying to settle into a new home. He also relinquishes his bond rather than argue with the landlord. He believes the cost to his mental well-being will be too great if he has to continue facing the landlord's aggressive manner.

Issues:

- Many tenants relinquish their rights and pay money to the landlord in order to try to protect their mental well-being.

- Many tenants report having little faith in the systems that adjudicate disputes and feel that their unique issues would not easily be accommodated by a Tribunal system. These issues often include communication problems, comprehension barriers, and emotional distress that hinders their ability to communicate.
- Many tenants also recognise that despite efforts to protect their safety and well being in a Tribunal context, landlords can continue to intimidate them or exploit the dispute resolution mechanism.
- Further, tenants in this position regularly struggle with debt arising from leaving the tenancy and forfeiting their bond.

Case study 3

A family of five live in a three-bedroom property they rent through a real estate agent. The three children go to the local school. The father was retrenched from his job after an industrial accident. He suffers bouts of depression as a result of severe back pain. After several months of lateness with paying the rent the agent threatened to take them to the Tribunal. The relationship between the parties deteriorated and the agent sought termination. The agent placed the tenant's name on a data base which lists tenants who have defaulted on rent payments or breached their rental agreement.

After four years at the property the family decided to move and as all rent was up-to-date and the premises immaculate they were shocked to find they were repeatedly unsuccessful in securing new accommodation. The tenant data base listing reached every real estate agency who declined to rent to the family. The only option available was private landlords who generally do not subscribe to the tenant databank.

The long search for suitable accommodation, worry about renting directly with a landlord, the long-term consequences of being listed permanently on a data base, resulted in a significant deterioration of the father's mental health.

Issues:

- Need for regulation of databanks on tenants. Those most vulnerable to abuse by unregulated, private agencies are those people living with mental health problems.
- Need for increased advocacy services that can assist at the early stages of a dispute thereby preventing further serious problems that can and often do lead to homelessness.
- Need for harsher penalties against landlords who seriously and persistently abuse their power in the landlord-tenant relationship.
- Families and single people listed on tenants' databases are often forced into caravan and residential parks, boarding houses, hostels and cramped arrangements with family and friends. There is no tenancy protection for boarding house residents under the tenancy legislation and residential parks have limited tenancy legislation protection. These types of low rental housing tenures are not always suitable for those vulnerable while living with mental illness. The relationships are often complex, involving limited legal protections, live-in caretakers and managers and the accompanying rules and regulations, and crowded conditions with poor amenities.

Conclusion

The Illawarra Legal Centre Tenants' Service has a high number of tenants seeking assistance who do not have any formal or professional connection to mental health services. However, many of these tenants describe various forms of psycho-social mental health illness, resulting from years of neglect, poverty, poor physical health, powerlessness, isolation, and financial and social insecurity. There would be no official statistics of mental illness arising in this situation and its effect on renting and homelessness.

However, the service currently has workers with around 30 years of accumulated tenancy and housing experience which enables it to comment with some confidence on tenants and mental health issues and the lack of relevant mental health support services. Those services that exist are poorly resourced and are not accessible in various geographic regions. Furthermore, few, if any, services are able to assist tenants with multiple but linked problems, such as substance abuse and mental illness (dual diagnosis).

There is a clear need for affordable, secure accommodation which provides some additional support in the form of trained specialist workers.

Finally, there is a need for a collective approach, by government and non-government organisations, to address law reform issues that systematically act to restrict tenants' rights and limit suitable housing options. Without such law reform, those at risk of mental illness will be more vulnerable and those struggling to manage their mental health will be seriously undermined.

Inner West Tenancy Advice and Advocacy Service

Generally this service finds that while it works to empower tenants, mental health services will by-pass the tenant and deal with the Department of Housing directly, in a disempowering manner. Part of the problem is also the amount of time it takes for DOH to act on a complaint from a tenant or approve an application or transfer.

In spite of the fact that the outcome for the tenants in the following case studies was quite good in that the tenants were housed in permanent DOH premises rather than in the private rental market or head-leased premises. The following case studies demonstrate the disempowering approach that can be adopted by some officers of the Department of Housing and the local Mental Health Team.

Case Study 1

The tenant is a young man in his late twenties with schizophrenia who lived in head-leased premises. With assistance from his mother, he requested repairs to his dwelling over many months. After interviewing the tenant, the service wrote to DOH, and the landlord, on the tenant's behalf and advised the tenant of the Tribunal process.

The landlord's response was to threaten immediate eviction. The landlord wrote to the DOH stating that they had not done repairs because the tenant denied access and had demonstrated violent tendencies.

The DOH said it would apply to the Tribunal for an order for repairs against the landlord. However, the DOH did not apply to the Tenancy Tribunal. The DOH accepted the landlord's excuse for not doing the repairs, seemingly without question.

The service had a number of conversations with the DOH explaining that the Tribunal would be a good, neutral place for the repairs to be arranged. The landlord could take the opportunity to arrange access and have the details documented in an order of the Tribunal. The DOH still did not apply.

The service then assisted the tenant to make an application to the Tenancy Tribunal. It found the tenant easy to work with mainly because it acknowledged his capabilities rather than focusing on his incapacities. The tenant was happy he could use the law in his favour.

The service discussed with the tenant the possibility that DOH would ask him to move. It made a list of the tenant's requirements for new premises and assured the tenant that he need not accept anything less.

The service went to a Tribunal hearing, where the DOH officer said he had just been informed that the Department was investigating finding permanent DOH premises for the tenant. The DOH officer said he had already been talking to the local Mental Health Team and had arranged an inspection with the landlord, the mental health caseworker, the Client Service Officer, and a DOH Social Worker, and handed the tenant one week's notice of the date of inspection.

The service's worker explained that these were a lot of people to be turning up at the tenant's premises without really asking the tenant about it, especially if there had been problems with gaining access in the past.

The tenant agreed to the inspection because he wanted to be seen to be doing the right thing.

The service contacted the Mental Health Team to find out what their role was and to outline what it had discussed with the tenant regarding his needs as a tenant. It indicated that it preferred to work with tenants towards empowerment and was surprised that nobody contacted the tenant about the coming inspection and the involvement of his mental health caseworker. The health worker's involvement without the tenant's knowledge was not an issue of importance for them. The service's worker asked them why they could not have contacted the tenant first, but received no adequate answer.

The tenant finally got what he needed, but only after a long and demeaning process.

Case Study 2

The tenant suffered from schizophrenia, and was removed from DOH premises after a decision was made in a meeting between Department of Community Services, DOH, and the Mental Health Team. The tenant was removed because the place was a mess.

The tenant was placed in a group home which he did not like because he did not have his privacy. His DOH premises was a one-bedroom flat.

The tenant's finances were being overseen by the Office of the Protective Commissioner and the tenant was happy for the service to ring the Commission to check if they were still paying his rent.

After days of trying to get through to the relevant Protective Commission officer (never getting further than the switch), the service was told by the officer that they were about to stop paying the tenant's rent on the DOH premises.

The service asked the Commission how they had decided not to pay the rent, and they said they had been paying for the group home and would not pay for two forms of accommodation. The decision was in the hands of the individual worker.

The service wrote to the Commission stating that more care should be taken in making decisions which affected the tenant's security of tenure, and it also spelt out the relevant Residential Tenancies Act requirements.

Later conversations with DOH revealed that in fact the tenant's rental account was heavily in credit. This was because DOH had applied the \$5 nominal rent for the period the tenant was absent from the dwelling. The DOH and the Protective Commission had not talked to each other at all.

In the meantime, the DOH applied to the Tenancy Tribunal for termination and compensation due to damage done to the premises. Orders were made for vacant possession; the compensation application was withdrawn; and the tenant remains on the DOH transfer list.

Conclusion

These stories illustrate that (a) there are not enough housing and support services for those living with a mental illness and (b) in some areas, integration of service delivery is rhetorical rather than real.

Recommendations

1. That Boarders and Lodgers legislation as recommended in the draft bill be introduced into Parliament as soon as possible, in line with the NSW government's promises.
2. That an integrated approach to housing and support services be adopted in NSW similar to successful programs like the Housing and Support Program in Victoria.
3. That a realistic level of funds be dedicated to meet the growing demand from people with complex needs for housing and support services.
4. That the NSW government asks the federal Government to increase the amount of funding delivered to NSW under the Commonwealth-State Housing Agreement and increase funding for support services from the Health Department.

5. That Shelter NSW also endorses the submissions from the Coalition for Appropriate Supported Accommodation for People With Disabilities (CASA), the Mental Health Co-ordinating Committee (MHCC) and the submission from People With Disabilities (PWD).