23 April 2013

Housing Payment Deduction Scheme Consultation

Housing Policy Branch (MSH 3)

Department of Families, Housing, Community Services and Indigenous Affairs

Dear Sir or Madam

**Public Housing Tenants Support Bill 2013**

Thank you for the opportunity to comment on the *Public Housing Tenants Support Bill 2013* (‘the Bill’).

We note that the North Australian Aboriginal Justice Agency (NAAJA) has made a more detailed submission. We endorse NAAJA’s submission and make further submissions below.

From the outset, we wish to make the following observations:

* Top End Women’s Legal Service Inc (**TEWLS**) only became aware of the Bill during a meeting on 17 April 2013. We were then disappointed to be informed that an extension of time for submissions was not possible. As a result of the short timeframe, capacity constraints within TEWLS and the need to prioritise our clients, TEWLS has not had adequate opportunity to scrutinise the Bill and are thus unable to provide a properly considered submission.
* The Bill has the potential to significantly impact upon decision-making concerning resource allocation for individuals in public housing, however it appears little has been done to alert such individuals to the Bill or provide accessible means for public comment. Very little time has been given to provide written submissions. For those public housing tenants unable to provide written feedback due to language, literacy, disability or other issues, no alternative consultation process has been provided. We therefore submit that the consultation process has been grossly inadequate.

**Comments on the content of the Bill**

TEWLS again notes the rushed nature of this submission. We have raised some key issues below, however we emphasise that **we do not support** theBill or the Housing Payment Deduction Scheme.

* We note that the compulsory deduction scheme will apply broadly to ‘housing payments’, which includes rent, water charges, repair and maintenance charges and other charges imposed by public housing authorities. Tenants in arrears or at genuine risk of arrears may be subject to compulsory deductions.
* We are concerned by the fact that compulsory deductions will be permitted where there is a perceived “risk of arrears”. This is inconsistent with provisions in the Bill stating that the deduction scheme is to be a measure of last resort, with public housing authorities needing to first attempt recovery action. If an individual is not actually in arrears, than we assume that no recovery action will have taken place. How then is the imposition of compulsory deductions on an individual considered at genuine risk of rental arrears justified as a measure of last resort?
* TEWLS is also gravely concerned by the absence of any legislative provision for a right to review a referral for deductions. This negates procedural fairness and does not allow for consideration of individual circumstances, which may demonstrate that compulsory deductions will impose unjust hardship on the affected individual and their family. We further note that in the Northern Territory, the absence of an administrative appeals tribunal means that the only recourse for review is through the original jurisdiction of the Supreme Court, which is inaccessible for many disadvantaged and marginalised Territorians.
* Compulsory deductions will not remedy the fact that a key reasons for rental arrears is serious financial stress. Whether rental payments are compulsorily deducted or voluntarily paid, the financial circumstances of the individual remain strained. The Bill represents an unnecessarily punitive approach to a broad social issue.
* Whilst living costs continue to increase, we note that the amount received by way of NewStart allowance has not increased in real terms since 1994. Further, recent sole parent payment cuts have had a disproportionate impact on women who make up over 80% of single parents in the Northern Territory. The financial strain experienced by single parent families in particular is increasing. The prospect of being forced to have 35% of income deducted for the purpose of paying public housing arrears is only going to increase financial strain and associated mental stress, to the detriment of single parents and their children.
* TEWLS sees many domestic violence victims move into public housing after leaving a violent relationship. For these women, the compulsory deduction of public housing payments will represent another instance of loss of control over their lives. Domestic violence is often characterised by the exertion of dominance and control by a perpetrator over the victim. In some cases, perpetrators effectively control most aspects of a victim’s life, including financial decision-making. The compulsory deduction housing payments implies that an individual is not capable of making decisions about the allocation of his/her resources. The effect is to further disempower already traumatised and marginalised people.
* TEWLS is concerned that tenants may not become aware when rental or other tenancy payments, such as repairs and maintenance, have been overpaid or incorrectly charged and may therefore miss time limits for appeals and reviews. We are concerned that there are inadequate safeguards to prevent public housing authorities collecting unsubstantiated debts.
* Finally, the loss of control over the allocation of individual resources may inadvertently create, or reinforce, decision-making dependence. A more appropriate response would be to increase the availability of decision-making, tenancy management and financial support options, which seek to understand the circumstances for a tenant’s arrears and where appropriate, work with tenants to address financial strain or to encourage greater responsibility for financial obligations.

**Who we are**

TEWLS is a community legal centre funded by the Commonwealth Attorney-General's Department to provide referrals, legal advice, casework, law reform and community legal education to women in the Top End of the Northern Territory. We regularly provide advice and assistance to disadvantaged women, including Aboriginal, Torres Strait Islander, refugee and immigrant women, on family law, domestic violence, victims compensation, debt, tenancy and other civil matters.

If you would like to further discuss this submission, please do not hesitate to contact Adrianne Walters on (08) 8982 3000.

Yours faithfully,

**TOP END WOMEN’S LEGAL SERVICE INC**

Adrianne Walters

*Senior Solicitor*