

Kempsey Nambucca CLSD Program meeting
24 October 2023, 12.30pm – 2.30pm, Kempsey Library, Kempsey

MINUTES

Julie Wright, Kempsey Families; Leanne Asper, Suicide Prevention Outreach Team; Sophie Macleod, Suicide Prevention Outreach Team; Jo Knight, Mid Coast Tenants Advice and Advocacy Service (TAAS); Kirsty Napper, Nautilus School; Shirley Kent, Kempsey Neighbourhood Centre; Alan Davidson, Kempsey Neighbourhood Centre; Kate Halliday, Legal Aid NSW; Leiann Vicars, Co-operative Legal Services Delivery Program; Miranda Abbotts, Mission Australia; Jai Storm, Dhulawang AC; Stacey Kelly-Greenup, Dhulawang AC; Ashleigh Howe, Social Futures Family Connect; Michelle Manyon, FCS Pathfinders; Emma Smallwood, Legal Aid NSW; Ronald Dennison, Legal Aid NSW; Kyrie Couch, Legal Aid NSW; Linda Olive, Department of Education; Jane Titterington, Mid North Coast Legal Centre; Kade Simpson, Kempsey Families Inc; Georgia White, Kempsey Families Inc; Rachel May, Kempsey Families Inc; Melanie Bradfield, Legal Aid NSW.

Agenda item	Discussion	Action/Outcome
1. Opening and purpose	<p>Leiann acknowledged this meeting took place on the lands of the Dunghutti people and welcomed everyone to the meeting.</p> <p>The purpose of the meeting was to:</p> <ul style="list-style-type: none"> • hear from presenters about tenancy issues across the region, • provide information to presenters and legal service providers about tenancy issues impacting clients and the community, and • consider and discuss ways in which partners and their tenant clients can utilise referral pathways more effectively. 	
2. Presenters	<p>Jo Knight – Mid Coast Tenants Advice and Advocacy Service (TAAS)</p> <p>Jo is based in Port Macquarie and TAAS covers Taree to Woolgoola, including duty advocacy at NCAT. NCAT has resumed face-to-face hearings at Kempsey.</p> <p>TAAS can assist in the following ways.</p> <p>Rental repairs constitute the single biggest issue. TAAS can provide advice to tenants about repairs to</p>	

homes. Tenants are often disempowered and in response to no action on repairs might stop paying rent – our advice is never to do this!

The Residential Tenancies Act 2010 sets out provisions around urgent repairs and provide for a reasonable time within which repairs are to occur (e.g. sometimes this may be within a few hours). These repairs are the LL's responsibility but the LL may not act, even if the situation is dire. In these circumstances, the tenant should make a written request for repair and if so, should include a timeframe i.e. if you do not fix this issue by a certain date, we will.

Applications can be made to NCAT and orders can be made directing a landlord (LL) to repair a dwelling and to pay the tenant compensation and in some circumstances reduced rent for the period when repairs are not made.

Mould is a common problem and difficult issue to resolve. Evidence (usually expert evidence) is needed to show that the mould is the responsibility of the LL. This is not a simple or inexpensive step as a report is needed but it is possible to get funding from Legal Aid to seek a report.

Rent increases – there is no legislation governing rental increases. It is a myth that rent increases cannot be more than 10% in NSW – this is not the case under NSW legislation. Tenants should be given 60 days' notice of an intention to increase rent and tenants have 30 days to challenge a rental increase amount (e.g. are there outstanding repairs to be done?).

Tenants are encouraged to send their rental agreement to TAAS for advice so that they understand the terms regarding rent increases.

Domestic violence provisions – the Residential Tenancies Act has provisions for victims of domestic violence to terminate a fixed-term lease and evidence of domestic violence needs to be provided, such as an ADVO or evidence from a competent person. A notice must be issued and the tenant/victim can leave immediately.

A perpetrator can also be removed from a lease agreement if a final ADVO has an exclusion clause or a victim of domestic violence can apply to NCAT to do this, arguing special circumstances. This can be challenging and a tenant/victim of domestic violence should get advice from TAAS or a legal service before taking action. Note that a perpetrator may not be liable if, for example, they move in from out of town and are not on the lease. This will often come down to evidence that the victim can

produce.

Where damage is caused by a perpetrator of domestic violence, the LL should be informed as soon as possible. Due to the risk of having an entry on a tenancy database, there is a need to use the domestic violence termination notice. Tenancy databases are regulated, so if a problem occurs here a complaint can be made to Fair Trading.

Tenants' Union factsheet and resources including sample letters are available – see [Domestic violence and tenancy | Tenants' Union](#)

A home needs to be habitable under the Residential Tenancies Act.

Challenges exist around renting with pets – the Tenants' Union has run a campaign on this. Pets can also be an issue for people who are subject to domestic violence and who need to move.

Staying Home Leaving Violence (SHLV): one challenge is that some LLs can be apprehensive about safety assessments for a house being sought under SHLV. SHLV can pay for safety upgrades for rental accommodation but there is no protection from a no grounds eviction once the fixed term has expired. A LL can serve a notice for a tenant to leave and then take the benefit of the upgrade. The power imbalance between tenant and LL means the tenant will often take whatever they can get – it may only be a lease for 6 months.

Two important messages: turn up at NCAT! Get advice before you or your client goes to NCAT!

Other resources from the Tenants' Union:

[New Renters Kit | Tenants' Union](#)

[Rent Increase Negotiation Kit | Tenants' Union](#)

[Tenant databases | Tenants' Union](#)

[Disaster damage | Tenants' Union](#)

Melanie Bradfield, Legal Aid NSW

Melanie is a Homelessness Outreach Lawyer at Legal Aid NSW in Coffs Harbour.

Legal Aid NSW can assist with many legal issues that touch upon and are relevant to housing, for example, Centrelink and income support.

Recent changes have been made to eligibility for temporary accommodation. The cap of 28 days has been removed, and there is no contribution for victims of domestic violence.

However, in Melanie's experience, not all housing providers are applying the new rules consistently and road-blocks can be encountered.

Here is the link to the Rentstart policy which has a link to a checklist showing what may be used to meet the ID: [Rentstart Assistance Policy | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au/rentstart-assistance-policy)

Other evidence (other than a birth certificate) can be used to demonstrate eligibility for housing (citizenship or residency).

If the policy has been misapplied, a first-tier appeal can be lodged.

A common issue for people who have been homeless and are in housing is that they struggle to maintain their tenancy – it is important to get help early! Refer to Legal Aid NSW or TAAS for advice.

In relation to bonds, keep a copy of the initial condition report issued on the start of the tenancy, take photos of everything and report any issue when it arises. Be aware that agents and/or LL's may use scare tactics about damage and the return of bond monies – but stand firm!

NCAT does not have to evict when a social housing provider makes an application for eviction. Social housing providers should not use no grounds evictions. NCAT has a discretion not to evict social housing tenants. First Nations' tenants can be referred to the new NCAT Indigenous tenants' list which offers a good pathway, including dedicated conciliation (online).

Legal Aid NSW can assist with expert reports (subject to the Legal Aid NSW means and merits tests) for issues such as mould.

The specialist [Disaster Response Legal Service](#) is available for tenants affected by natural disasters.

Another challenge faced by people who are homeless is being moved on and being threatened with receiving a fine if they do not move on. While Councils manage a lot of Crown land there are other government agencies who are responsible for Crown land where people may camp or park their car. Legal advice should be sought if threatened with a fine or given a fine.

Ronald has also seen instances where the police and DCJ have made an agreement to assist people who are homeless.

Council rates are another area where legal help is available. Councils have uneven responses to the requirement to have hardship provisions for ratepayers.

The new NSW Rental Commissioner is working on privacy issues and tenants and requiring tenants to use a specified App to pay rent.

Shirley was aware of a situation where the property agent said that the person in the house was in financial trouble and sought to remove the person – that is, the agent was taking on the power role – Shirley noted that often the LL does not even know of such situations.

Jo agreed with Shirley – she has seen situations where rental increases have taken place that the LL does not know about or has not agreed to.

The current cost-of-living pressures are exacerbating housing situations for tenants. Jo was aware of a tenant who was receiving rental assistance and was on centre-link payments and working part-time but was not able to meet the payments required and had to leave the property.

Jo noted difficulties for aged pensioners who own their own homes, particularly around the payment of council rates. If council rates are unpaid for five years, it is possible for a property to be sold to recoup unpaid rates. Hardship provisions are available but it can be difficult for aged pensioners to meet the requirements.

Jo noted that even where people own their own trailer or cabin, that it can be costing owners up to \$200 per week to rent the land on which they are located.

At Pete's Place in Coffs Harbour, there is a growing cohort of people on Centrelink or with multiple jobs who are struggling with cost-of-living difficulties and pressures.

Alan Davidson, Kempsey Neighbourhood Centre

Alan spoke about Centrepay being used as a system for payment by tenants but tenants being on-charged a small fee for each transaction.

Alan was aware of a tenant who had been renting for 28 years and a \$1.00 fee had been charged each week that the rent was paid – in other words, the estate agents are passing on the Centrepay cost to tenants.

Jane said that there needed to be a collective campaign initiated where tenants are encouraged not to use Centrepay to make rental payments.

Mel said that a bulk complaint could be made to Fair trading.

Jo noted that Centrelink have an agreement with Centrepay, so Centrepay fees being passed on to Centrelink recipients and tenants should not be happening.

Actions that can be taken:

Jo raised that this was something to follow up. It was a matter of reading the policy and alerting Centrepay that they were in breach of their terms and conditions. TAAS could produce a sample letter for partners to send to Centrepay – it did not even need to name tenants.

The community legal centre could do a FB page to alert tenants to the issue – it is a matter of simple education.

Partners can approach Centrelink directly and express concerns.

Meeting closed.

3. Next meeting	TBC 2024	
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