

Submission to the

Senate Legal and Constitutional Affairs Committee

Inquiry into the Exposure Draft of the Human Rights and Anti-Discrimination
Bill 2012

December 2012

The Tenants' Union of NSW (TU) is the State's peak non-government organisation for persons living in rental housing. We are a specialist community legal centre with our own legal practice in residential tenancies law, and are the primary resource body for the State-wide network of local Tenants Advice and Advocacy Services (TAASs).

We make this very brief submission on the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012 (the Bill) on our own behalf, and on behalf of the NSW TAAS network.

We support generally the submission of the National Association of Community Legal Centres (NACLC) and the Kingsford Legal Centre (KLC) on the Bill.

We make the following further submission: *that a person's receipt of, or application for, a social service should be a protected attribute under the Bill.*

We are concerned, in particular, that applicants for social housing may be discriminated against in the provision of accommodation in the private rental market.

We have recently become aware of a practice amongst real estate agents of requiring prospective tenants to declare, on the tenancy application form, whether or not the prospective tenant is an applicant for social housing.

This declaration is required in the standard tenancy application form published by the Real Estate Institute of NSW (attached) – so the practice is widespread throughout this State.

We consider that the requirement of this declaration can have only one purpose: the vetting of applications with a view to refusing tenancies to persons who are social housing applicants.

This is a form of discrimination that is lawful under present State and Federal legislation, but potentially very damaging to social housing applicants. It may mean that social housing applicants, who are already disadvantaged in accessing private rental housing because of their low incomes, will be further disadvantaged because of their status. It may also mean additional calls for assistance on the State's housing authority, Housing NSW, particularly in the form of temporary accommodation.

We recommend that a person's receipt of, or application for, a social service, such as social housing, should be a protected attribute. We submit that the Bill could provide for this by either:

- providing that 'other status' is a protected attribute, as recommended by NACLIC and KLC, and further that receipt of, or application for, a social service is an example of such a status; or
- providing that it is a protected attribute in its own right.