

“Without housing, an individual’s education, economic and socio-cultural development are severely curtailed.”

Human Rights and Equal Opportunity Commission

Tenants Advice Service provides the following information for consideration by the Inquiry into the needs of country and metropolitan urban dwelling Aboriginal and Torres Strait Islander peoples.

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23 February, 2001

"Where the white man will be happy to have us as neighbours"

We do really appreciate the Native Welfare Department for building up homes such these because we, the Aboriginal people, must learn to live as equal members in the community. The first step towards this is to keep ourselves and our children clean and tidy and I find with a house like ours this is simplified. We have no excuse because I believe by training our children now to keep the house clean they will grow up to be better and cleaner citizens in the future where the white man will be happy to have us as neighbours.

Excerpt from "My House",
Department of Native Welfare (WA) 1971

For much of the last century Indigenous people in Western Australia were confined to camps, missions and reserves without access to infrastructure or services such as water or sanitation. Town camps for Indigenous people were sometimes located on or near rubbish tips and sanitary depots. Some individuals were able to escape these confines. Being issued with work passes allowed them to enter otherwise prohibited areas for work purposes, outside of curfew hours. Another longer-term measure for escaping the camps, missions and reserves was by being exempted from the provisions of the various *Aborigines Acts*. To be entitled to exemption Indigenous people had to be "integrated" and were prohibited by law from associating with "natives". For example the *Natives (Citizenship Rights) Act* of 1944 allowed citizenship to Aboriginal people provided they were adult, literate, of "industrious habits and good behaviour", had adopted a "civilized life", were not suffering from syphilis or leprosy, and had completely severed any tribal or communal association. If successful in their application individuals would be issued with a certificate deeming the holder "no longer to be a native or an aborigine".

To avoid the oppressive regime of the Aboriginal "Protection" laws and the deplorable conditions in camps, reserves and missions, Indigenous people in Western Australia had to forego contact with their own community and extended families: to be deemed to be no longer who they were. At the same time they also were expected to meet and to maintain standards which were not required of non-Indigenous people. No one else could be deprived of their citizenship because they were ill or illiterate.

Although assimilation was abandoned as official government policy by the early 1970s, at the same time the administration of government-funded Aboriginal housing (except in reserves) was "main-streamed". The State Housing Commission of WA, now Homeswest, assumed responsibility and control of housing for Indigenous people in 1972. In spite of the changes in government policy and the numerous reports and inquiries, as documented in the Part 3 below, this State's practices in relation to housing Indigenous people have remained remarkably unaltered. The earlier dual discrimination

against Indigenous people whereby their own cultural obligations and ties are at best ignored, at worst a basis for eviction, while a stricter regime of compliance is exacted continue to this day.

References:

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PART 1 – Background

1.1 Tenants Advice Service

1.1.1 Background

Tenants Advice Service's (TAS) history spans 21 years. TAS has continued to be unique as the only specialist community based, not for profit tenant organisation in Western Australia with the primary object to target and provide services to residential tenants, and organisations assisting tenants, throughout the State.

TAS is widely recognised throughout the community for its specialist knowledge and services and its role played in striving to alleviate the disadvantage faced by tenants in the rental market.

TAS' work can be divided into three main areas:

1. Direct Service: information, advice, advocacy and representation on individual tenant's issues.
2. Community Legal Education: publications, Information, education and accredited training.
3. Follow-up Representation on issues affecting tenants: research, submissions and representation.

In 1999 TAS was restructured to become a specialist resource unit to a network of new tenancy services throughout the State. Resource Unit functions include test case work, program management, research and input to Government policy on housing issues and the production of various publications on tenants' rights and obligations.

TAS provides information, advice, assistance and training to a broad range of organisations which in turn provide information, advice and advocacy directly to residential tenants throughout Western Australia. These organisations include:

- Local Service Units funded specifically to provide tenancy services to tenants and potential tenants;
- Community Legal Centres;
- Financial Counsellors;
- Women's Refuges;
- Housing support workers;

- Indigenous services;
- Youth services, including youth accommodation services;
- Migrant Resource Centres and other services with ethnic specific workers;
- University and other post-secondary housing workers; and
- Parliamentarians' offices.

TAS targets services to those who face disadvantage in the rental market. Our target groups include:

- People on low incomes;
- Indigenous people;
- People with disabilities;
- Older tenants;
- Young tenants;
- Recently arrived migrants and refugees;
- Sole parents; and
- People with literacy issues.

1.1.2 TAS' contact with Indigenous Australians

As noted above, one of TAS' target groups are Indigenous people. Indigenous people all too frequently also belong to one or more of our other target groups.

Public housing constitutes a high proportion of TAS' casework assistance. Approximately 50% of all TAS' casework, and the vast majority of major casework, is in relation to Homeswest issues. (This is significant given that public housing rental is approximately 5% of all households while private renters are more than 20% of all households.) The majority of this casework involves Indigenous families.

Through our state-wide telephone advice line, TAS has contact with Indigenous people who are experiencing problems accessing the private rental market, having maintenance and repairs carried out, or problems at time of termination of tenancy agreements.

In addition TAS is familiar with the circumstances of many urban Indigenous families in regional WA through the issues raised by services working with tenants in those areas. TAS communicates on a daily basis with regional services who work with tenants, through phone consultations, e-mail, the electronic Bulletin Board System, and facsimile;

through monthly case conferences facilitated by communications technology; and through participation on various committees and working parties. The majority of issues raised by regional workers concern Indigenous people with public housing problems.

1.2 Indigenous disadvantage

TAS does not propose in this paper to go into any depth on the statistics which evidence the disadvantage of Indigenous Australians. However, the following information is provided as background to the discussion of housing issues which follow:

In Australia:

- Indigenous life expectancy is 15 to 20 years less than the average;
- Death rates in the 25 - 54 age group are 6 to 8 times higher than the average;
- Rates of hospital admission are 2 to 3 times higher than those for the non-Indigenous population;
- Hospital admission rates for conditions which are indicators of mental illness, such as self-harm, substance misuse and suicidal behavior, are double the average;
- Rates of death resulting from conditions which are indicators of mental illness were four times as high;
- In 1997 19% of the prison population was Indigenous;
- In 1996 40% of children in “corrective institutions” identified as Indigenous;
- School participation rates are well below the average;
- Unemployment rates are 3 times the national average;
- 42% of Indigenous families compared with 24% of all families, have no employed family members; and
- In 1994 29% of all Indigenous families are headed by sole parents compared to 12% of all Australians.

Sources: Healy (1998), Healy (2000)

In Western Australia:

- An estimated 40% of Indigenous people are under 15 years of age, almost double the proportion of the total population (22%);
- Only 4% of the Indigenous population are aged 60 years and over, compared with 14% of all West Australians over 60 years;
- The median weekly income of Indigenous families is less than two thirds of that received by all families (\$492 compared with \$762);

- The median weekly income of Indigenous persons aged 15 and over is \$211, compared with \$307 for the total population;
- 8% of Aboriginal households in WA compared with 1% of all households, contained two or more families;
- The average household size in WA is 4.0 persons for Aboriginal households compared to 2.7 persons per dwelling for non-Indigenous households;
- The majority (69%) of Aboriginal households in WA live in rented dwellings compared to 25% of all households; and
- There were 1,353 or 13.8% of Aboriginal families living in overcrowded housing in WA.

Sources: ABS (1998); Dane (1999) in Shelter WA (2000)

1.3 The rental market

1.3.1 The private rental market

As noted above, the majority of Indigenous households live in rental accommodation. Rental dwellings are made up of public housing (including publicly funded community housing) and private accommodation. Indigenous access to the private rental market is characterized by lack of suitable housing to meet cultural and social needs, discrimination, issues of affordability and lack of security of tenure. The following information is based on Australia wide research but TAS finds it is reflected in WA:

- Discrimination by landlords against groups such as single mothers, renters with children, people with disabilities and Indigenous people include denial of access to housing, variations to the terms and conditions of the tenancy agreement, offering sub-standard housing and evictions. (San Pedro 2000)
- A 1996 report found there was double the increase in rental rates in the cheapest 25% of rentals than in the overall market. (Yates & Wulff (2000) as cited in Burke 2000)
- The same report found that availability of low cost rental housing fell by 28% while there was an increase of 70% in low-income renters. (Yates & Wulff (2000) as cited in Burke 2000)

In Western Australia, an Indigenous law student conducting research into discrimination in the private rental market found that Indigenous tenants are perceived to be a high risk with an expectation of overcrowding, property damage and rent arrears. (Solonec 2000)

In TAS' experience it is difficult for Indigenous families to access the private market. They are repeatedly told there is nothing available, or if they make a formal application it is declined. When asked why, the owner/agent generally replies that they don't have to give a reason, or that it is because they are unable to provide references. (It is public housing policy to not provide a reference for a tenant moving from public housing to private.) Often the only form of private housing Indigenous people are able to access is that which is in poor condition, or otherwise for only a short fixed term period. Tenants cannot be guaranteed security of tenure and constantly face the prospect of eviction.

1.3.2 Public housing

Public housing plays a critical role in housing Indigenous families, yet public housing availability for Indigenous people falls well below demand. In 1997/98 Indigenous people made up 22.51% of applications for public rental accommodation in WA. Waiting time on the general waiting list can be many years. The priority waiting list, for those in urgent need, has blown out in recent years from 8 weeks to 12 months and longer.

Indigenous people face particular difficulties with both access to and maintenance of public housing tenancies.

1.3.2.1 Community housing

Most community housing projects in WA are funded by the State Housing Authority, Homeswest, but are managed by non-profit, non-government community organisations or local government authorities and provide alternative public housing for people on low incomes or with special needs. Because community housing is managed through community managed and owned organisations it is a mechanism which can be a very successful option for Indigenous people. However there are also significant problems – often beyond the control of the Community Housing Associations (CHAs) which are supposed to manage community housing.

For example, Indigenous families' access to such housing programs is limited by Homeswest policy, as it requires that the same eligibility criteria be applied to community housing applicants as it applies in assessing eligibility to applicants for Homeswest housing. (See "Eligibility Criteria" below, section 2.1.1) Homeswest demands that Community Housing Associations (CHAs) provide the names of all applicants in order to check their eligibility against Homeswest's criteria. CHAs who defy Homeswest risk their future funding.

Waiting lists for Community Housing are growing at an alarming rate. One small CHA has a list of more than 80 Indigenous families with an average of three children each, who are currently homeless and permanently barred from public housing.

CHAs are inadequately funded, being provided with “bricks and mortar” but insufficient monies for necessary maintenance or support functions. CHAs subsist mainly on the income derived from rent, which is determined using Homeswest’s rate of 25% of household income. (See "Determining Charges" below, section 2.2.4) Homeswest Information Packages for CHAs advise that to increase their financial viability CHAs should include Centrelink rent assistance in their calculations.

Many of the properties provided by Homeswest to CHAs are run down ex-public housing stock. Newly built housing is often cheaply constructed and vulnerable to damage. For example, like Homeswest stock, external doors are not solid and lack adequate security, fixtures are of the cheapest quality and walls often have only a single coat of paint. Such premises are unsuitable for large Indigenous families who are unable to maintain them in a condition acceptable to Homeswest, which has been known to insist that the CHA allow Homeswest access to inspect and then pressure the CHA to terminate the tenancy.

1.3.2.2 Homeswest

Homeswest is the major provider of public housing in WA. As indicated above Homeswest policies are often indirectly imposed on CHA tenants. (See section 1.3.2.1 above) It is also, as discussed in section 1.1.2 above, the landlord most frequently the subject of cases dealt with by TAS and as such is a major focus of our comments.

1.4 Discrimination in the rental market

Discrimination often characterizes Indigenous people’s experiences of the rental market – in both private and public housing. The inadequacy of existing anti-discrimination law to address this endemic problem is evidenced by the high volume of complaints in relation to these matters and the very few decisions across Australia in which complaints have succeeded. Unfortunately given the limited time allowed to address this Inquiry, TAS is not able to make a full submission on this point. However TAS highly recommends the work of Solonec (2000) and McCahon (circa 1996), studies which explore issues of discrimination in the private rental market and public housing as well as the practical and other limitations of the law in this area.

References

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PART 2 - Homeswest policies, practices, programs and appeal mechanisms

2.1 Homeswest Policies

Recent policy initiatives by Homeswest do have the potential to alleviate some of the crucial problems faced by our clients. These include the policy initiative through which new contracts require contractors to provide appropriate notice to tenants prior to carrying out maintenance and routine repairs. Other very positive Homeswest initiatives in TAS' view include the discount allowed to non-urban Indigenous people moving into Homeswest housing for the first time and the Domestic Violence policy which specifies that domestic violence is an eligibility criterion for housing or transfer. Our concern, however, is in the implementation of these policies. We believe Homeswest could assist by ensuring that officers receive ongoing training so that these very positive policy changes are effective. Just the week before last one of TAS' workers spoke to a Homeswest officer who was unaware of the new contractual term requiring proper notice to tenants from contractors.

In other instances it is the content of the policy which is problematic.

2.1.1 Eligibility criteria

Homeswest has a policy entitled "*Eligibility relating to an applicant with a poor tenancy history with Homeswest – such as debt, antisocial behaviour, poor property standards?*". This policy reserves the right to refuse assistance, pursuant to section 15(e) of the *Housing Act 1980* (WA) or to place conditions on assistance.

In effect, this policy excludes large numbers of urban Indigenous families from access to any form of housing. Unfortunately, Homeswest has refused, despite recommendations going back many years to collect statistics on the impact of its policies on Indigenous people. However, there is copious anecdotal evidence that the impact of this policy is particularly harsh on Indigenous people. The following is a typical example from TAS' case files:

Ms P is a young single mother of five children who is the victim of domestic violence. The perpetrator caused damage to her premises during assaults on her. Due to her reluctance to report such incidents to the police, she incurred debts related to repairs. Eventually, the perpetrator assaulted Ms P so badly she spent some time in hospital. During this period, she experienced problems with her social security payments, and because her rent was paid via direct debit her account fell into arrears. After her release from hospital she and her children stayed with her grandmother. On returning to her home, Ms P discovered that Homeswest had secured a court order for termination, recovered possession of her premises and disposed of all her belongings. Ms P now has a large debt to Homeswest for the rental arrears, repairs for damage caused by the perpetrator, cleaning costs and “rubbish” removal. She is ineligible to be rehoused until she pays the debt. She has no means or prospects to pay the debt. Ms P and her children now live in her grandmother’s overcrowded tenancy, which is now also at risk of termination.

Applicants with a previous debt to Homeswest are ineligible for public housing until 100% of the debt is repaid. This includes debts which have been expunged by bankruptcy or which are more than 10 years old. Applicants may enter into an arrangement to repay the debt in order to secure a place on the waiting list but are not provided with housing until the debt is repaid. If a payment is missed, the applicant is struck off the waiting list, in some cases without consideration of the difficulties which may have caused the default.

Homeswest is aware that, if evicted, most Indigenous families move in with their relatives and friends; and that issues associated with consequent overcrowding are likely to prejudice that next tenancy. (Wallwork 1998*) In TAS’ experience, this situation cements effective barriers to housing as each family in turn is rendered ineligible due to their “poor history”.

It is ironic that one of the strongest means of cultural preservation, kinship obligation, is the subject of sanction by Homeswest. Urban Indigenous families continue to live out their culture through sharing their homes with each other. Traditions such as the relationships between family members continue. For example, Aunties and Grandmothers continue to play a crucial role in child rearing. However, as discussed below, Homeswest makes little allowance for this distinctive lifestyle, particularly in urban areas.

2.1.2 Evictions

Homeswest states publicly that it is a benign landlord which asks only three simple things of its tenants - that they:

* Although the decision of Wallwork J was overturned on appeal, this finding was not in dispute.

- Maintain the house and garden to an acceptable standard,
- Maintain the rental account in good order, and
- Maintain good neighbour relations.

Homeswest also publicly states that eviction action only occurs as a last resort. However, the evidence belies these statements and indicates indirect discrimination against Indigenous tenants.

While the above three requirements may seem reasonable there are many reasons why Indigenous people in particular find themselves unable to comply:

- The “acceptable” standard of housekeeping is based on white middle-class notions and is determined inconsistently, on an arbitrary basis by various Homeswest officers, often without consideration of the circumstances of the tenant. For example, requiring a pregnant woman to climb up and clean an exhaust fan; or requiring an elderly, arthritic woman to scrub a mouldy ceiling.
- Due to overcrowding in many Indigenous tenancies, the families find it difficult to keep washing the walls clean or keeping the bare floorboards swept because of the numbers of young children. Although great effort may be expended by the family in preparation for inspections they are often unable to satisfy Homeswest standards. Some Indigenous tenancies are subject to 6 weekly inspections.
- Also due to overcrowding, there is considerable extra wear and tear on premises, for example door handles and drawer faces coming off, holes in flywire and increased accidental damage such as broken glass. Again, Homeswest makes little allowance for the circumstances and has held the family responsible, alleging “deliberate”, “negligent” or even “malicious” damage.
- Due to the extreme economic disadvantage suffered by Indigenous families they struggle to pay for additional cleaning products such as sugar soap or oven cleaner which are necessary to meet the standard required by Homeswest.
- Similarly it is impossible for them to afford to pay for lawn-mowing or hiring lawn-mowers on a regular basis or to purchase and feed plants in order to keep up with the standards of their non-Indigenous neighbours.
- The impact of poverty can also be seen in the common situation where the family vehicle is in need of repairs. Homeswest’s tenancy agreement prohibits having an un-roadworthy vehicle on the property and families are forced to dispose of the vehicle if they cannot afford to repair it immediately, or otherwise risk eviction. The high cost of removing the vehicle is an additional financial burden which places the family at risk of rental arrears.

- Indigenous families are often the subject of complaints by intolerant non-Indigenous neighbours. There are numerous cases of racially based complaints being made to Homeswest who then holds the tenants responsible for not getting on with their neighbours.
- Insufficient consideration is given by Homeswest to the circumstances of the Indigenous family being complained about, for example, in cases of domestic violence. There are numerous instances where the victim is said to be causing a nuisance to the neighbourhood when screaming for help during an assault, or when the perpetrator is shouting threats in the street.

The following is taken from an interview with Greg Joyce, Chief Executive Officer of Homeswest, aired on ABC radio 26 November 1995:

“The allegations were many, but it was primarily in respect of anti social behaviour: fighting, swearing in front of old people, young children and all sorts of other anti social behaviour that became known to the street. In fact I’d had one of the complainants who’d been a um...in public service for 30 years [in fact a retired police officer] came to see me in desperation and give me a tape of a big blue that had occurred in the tenancy the night before. Now we investigated it, we confirmed it with the police and as a consequence of that we took action against the tenant”

In the above situation, “the big blue” was in fact an incident of severe domestic violence. Responding to the violence, Homeswest intervened to make the tenant and her family, including a newborn baby, homeless.

In such cases, Homeswest routinely serves a breach notice on the tenant, requiring them to remedy the problem within 14 days or risk termination. If Homeswest is not satisfied with the tenant’s response, a termination notice is served requiring vacant possession within 7 days or risk legal action. This document is often the first notice to the tenant that a decision has been taken to terminate their tenancy. However, the notice itself precludes the tenant from seeking a review of the decision. (More information on Homeswest’s review and appeals mechanism is provided in section 2.4.)

It is the experience of TAS and many other government and non-government workers that Homeswest officers are often unwilling to attempt to negotiate a resolution to perceived problems. (See "Management Practices" below, section 2.2.) There is a high demand amongst Indigenous tenants for assistance from tenancy workers to resolve Homeswest issues. A typical case will involve making applications under Freedom of Information for documentation, examination of that documentation, visits to the premises, meetings, negotiations, submission writing, and securing supporting documentation. Homeswest provides no funding for this sort of work and few Indigenous tenants can get the help they need.

If the tenant does not vacate when the tenancy is terminated a court hearing is scheduled. Many Indigenous tenants do not attend the court hearing for various reasons, including:

- Health , for example admission to hospital;
- Shame and fear, for example of public exposure;
- Past bad experience in court;
- The association of the court with police;
- Illiteracy - not understanding the formal documentation requiring attendance;
- Inability to articulate a response to the allegations; and
- Their lack of representation at the hearing under the *Residential Tenancies Act 1987* (WA).

This results in many eviction cases being uncontested and eviction becomes a matter of technical process with justification seldom being required. The full circumstances of these cases are seldom given consideration. In pursuing eviction action no consideration is given to the impact on children and the resultant detrimental effect on their life chances. As the primary caregiver to children, Aboriginal women bear the brunt of the effects of eviction actions.

In 1999, TAS conducted an analysis of Homeswest's eviction statistics and found:

- 39% of all termination notices were served on Indigenous tenants;
- 42% of all court orders were against Indigenous tenants; and
- 54% of all bailiff-assisted evictions were conducted on Indigenous tenants.

Once evicted, these families are often homeless for years, moving between other family's tenancies and often being split up for periods of time as they struggle to secure shelter on a daily basis. For example, the families are too large to be accommodated by women's refuges and so one and two children are left in the temporary care of a grandparent or other relative. Due to a shortage of exit point housing (Shelter 2000) the families continue to seek shelter where they can for varying periods of time. The consequences of these include:

- Increased financial difficulties due to the costs of using laundromats, processed foods and transport.
- Poor school attendance due to having no home base to attend from and often staying some distance from the school where children are enrolled.

- Deteriorating health due to living in overcrowded conditions, being out in the weather and being unable to keep appointments for follow up treatment.
- Growing sense of alienation compounded by dislocation, isolation and hopelessness.
- Children being removed from their families “for their own good”.
- The creation or compounding of mental health problems.

Without access to public housing and because excluded from the private market, Indigenous people increasingly feature in homelessness statistics. For example, there were 1,063 homeless Indigenous families (based on families living in improvised dwellings and living with other families) in 1996 compared to 940 families in 1991, representing a 13% increase (Dane (1999) in Shelter 2000) This trend continues.

2.1.3 Public housing stock

A large proportion of public housing stock provided to Indigenous people is of very poor quality. Homeswest is attempting to address this problem through widespread redevelopment projects. However, these projects impact negatively on availability of housing. (For more information on redevelopment see section 2.2.7.) Homeswest presence as a proportion of housing stock has steadily declined from 6% in 1991 to 5.2% in 1996. More recent data are unavailable. (Shelter 2000).

Much of the problematic remaining stock consists of three bedroom timber and fibro, or fibro lined houses. The walls, cupboards, plumbing and electricity are deteriorated. The fixtures are also often of poor quality such as plastic sinks and flimsy aluminium screen doors. A significant proportion of total stock is known as “Fund 6” stock which is designated specifically for Aboriginal people and is often in poor condition due to lack of maintenance and high levels of wear and tear by large families.

Many of the old houses are not connected to the main sewer and families frequently suffer from septic tank failure and infestations of vermin and pests. Typically this leads to the children suffering bouts of gastro-enteritis, especially in overcrowded accommodation. The effect on children’s health contributes to high rates of absenteeism from school perpetuating a cycle of poor educational and employment outcomes.

Plumbing in many of the old houses is also deteriorated leading to drainage problems and loss of water through leaks. In the many instances where there have been delays in repairing the problem or repeated patch up jobs carried out, Homeswest does not acknowledge their responsibility to contribute to water costs. Tenants are seldom successful in appealing Homeswest’s decision to not contribute. (See "Homeswest’s review and appeals mechanism" below, section 2.4.)

A significant difficulty experienced by Indigenous families is the size and design of the houses. Large, extended Indigenous families are often forced to live in overcrowded conditions. Homeswest has a total of only 306 houses with five or more bedrooms in the whole of WA. (Homeswest (1999) This leads to significantly more wear and tear than in non-Indigenous tenancies, however Homeswest makes no allowance for this and continues to charge tenants for repairs which are not caused through any deliberate or negligent act by the family members.

Homeswest spending on construction of housing for Indigenous people has declined over the last 10 years, from \$12.63 million in 1990/91 down to \$10.22 million proposed for 2000/2001. Homeswest's construction program for 2000/2001 includes only 13 new designated houses in the metropolitan area (all less than five bedrooms) and 38 in the country (with only one five-bedroom place in Geraldton) (Ministry of Housing, undated).

Statistically, in relation to the three regions of the Perth metropolitan area, Homeswest's building program for 2000/01 will meet only the following percentage of Homeswest recorded demand :

Mirraboopa

18% of 176 applications for 4 bedroom houses

30% of 13 applications for 5 bedroom houses

0% of 1 application for 6 bedroom houses

Fremantle

16% of 86 applications for 4 bedroom houses

80% of 5 applications for 5 bedroom houses

100% of 1 applications for 6 bedroom houses

Cannington

9% of 111 applications for 4 bedroom houses

13% of 15 applications for 5 bedroom houses

0% of 1 applications for 6 bedroom houses (Homeswest 2000)

It should be noted that the number of applications, referred to above, is the number of families who have met the stringent eligibility criteria and therefore does not reflect actual need. In addition, the above information does not include priority applicants, a large percentage of whom are Indigenous people who are experiencing urgent need due to health issues and having no viable alternative options.

The location of housing is also a known problem. A typical case example:

An Indigenous family was allocated housing situated in a direct line on a short route between a suburban train station and shopping centre. The family experienced continuous problems with unwanted visitors and applied to be transferred but were refused despite support letters and the recommendation of the interviewing officer. The unwanted visitors caused damage to the premises while the tenant was absent from the property, on holiday with her children during the school break. The tenant was charged for the damage and evicted.

2.1.4 Maintenance and repairs

In TAS' experience Indigenous tenants have a great deal of difficulty getting Homeswest to respond to requests for maintenance. A typical case example follows:

An Indigenous woman rings the Homeswest maintenance department to report a leaking roof. She is told that due to the amount of repairs already carried out at the old house, the Accommodation Manager must approve any further expenditure first. Several days later, the roof is still leaking and she rings the Accommodation Manager who says they were unaware of the problem and will issue the job order with the work to be carried out within 14 days. Several days later, TAS inspects the premises and finds water pouring in through the skylight and pooling on the kitchen floor. TAS rings Homeswest who send a contractor the same day. The contractor places a tarpaulin over the roof. Several weeks later the tarpaulin is still there. TAS contacts Homeswest who say they were unaware the job was not finished. Several weeks later, the tarpaulin is still there. On further enquiry with Homeswest, the tenant learns that the contractor has attended several times without notice when she was not home. Homeswest agreed to provide the tenant's phone number for the contractor to make a time to finalise repairs (as per routine policy).

In such cases, where the need for repairs drags on over time, the family members' health can be affected. For example, the children and older people develop respiratory problems associated with the damp and frequently mouldy conditions.

Further, the damp atmosphere within the house often leads to the fibro walls becoming "spongy" and thus susceptible to damage, for example, if children bump against the wall while playing. Similarly, old weathered timber window frames swell and this leads to difficulties with opening and closing, in turn leading to broken window panes which are insecure because the putty holding the glass in the window is brittle and cracked away. The tenants are then charged to repair the damage. Such charges set up a cycle where the tenants are never able to clear their rental debts.

2.2 Management Practices

There are a number of issues with management practice adversely affecting Indigenous people. The following provides an overview of some of the areas of concern:

2.2.1 The Accommodation Manager

The cost of maintenance and repairs carried out to Homeswest premises is often routinely charged to the tenant without consideration of all the relevant circumstances. The Accommodation Manager places the onus on the tenant to prove they are not liable through the Homeswest Appeals Mechanism. (See section 2.4 below).

There are a number of issues which may be influencing this practice:

- Individual Accommodation Managers are expected to carry some 400 tenancies. In contrast, in the private rental market, Property Managers typically manage around 100 tenancies. In addition, given that the tenants in Homeswest tenancies are amongst the most disadvantaged in society, the Accommodation Managers must deal with many more problematic tenancies than their counterparts in the private market. In practice this leads to the Accommodation Manager being unable to give each case the consideration it might require. From TAS case files:

The Homeswest Officer gave evidence in Court that she had no knowledge of extenuating circumstances. When asked to describe the Accommodation Managers role, she replied simply to ensure that the tenant does not breach the agreement.

- Accommodation Managers are often changing rounds or filling in for their colleagues. It is impossible for them to keep up with the circumstances of individual tenants. Indigenous tenants find themselves having to repeatedly explain to different workers the history of matters relating to their tenancy, or renegotiate previously made arrangements.
- Accommodation Managers' performance indicators include reference to how much money they have spent out of their very tight budget. These factors may well influence the determination of liability for repairs. TAS is aware of documented situations where the Accommodation Manager has been instructed by their superior to charge the tenant for repairs with the knowledge that in fact Homeswest is liable.
- Accommodation Managers are only accessible to tenants during limited “telephone access hours”. During those times it is common for the phone to be constantly engaged. This makes it very difficult for tenants to communicate with Homeswest, particularly Indigenous tenants who often have no ring out facility on their home telephone. For example, it is impossible for a young mother to keep watch over her children while standing in a phone box by the side of a busy road, constantly re-dialing Homeswest.

2.2.2 Homeswest's Computer system

Homeswest's computer system causes a number of problems for Indigenous tenants. These include:

- The computer system routinely produces breach notices and standard formal letters to tenants whose account is in arrears. These letters are often inappropriate in the circumstances. The tone of the letters is threatening and the wording is not in plain English. A typical case example:

The Indigenous family with 6 children fell into rent arrears following a financial crisis. They received a series of formal notices from Homeswest. The family was fearful because Homeswest had evicted other members of their extended family. The wife went into Homeswest's office and made an arrangement to pay off the money owing. After, this arrangement was made the computer system issued a termination notice and a letter saying legal action would be taken to evict the family because they had failed to respond. The wife was so distressed by the threat to her home and family she had to seek medical treatment for anxiety and headaches.

- The computer system contains a number of shortcut keys for recording actions taken in relation to a tenancy. Shortcut keys may not be appropriate to the circumstances but are still used by Homeswest officers. For example, if for any reason the tenant's arrangement to pay rent via direct debit of their Centrelink benefits is cancelled, the cancellation will be recorded as having been at the tenant's request. This causes significant problems for tenants who do not realise their direct debit arrangements have been cancelled until they fall into arrears and find themselves held responsible for changes which were beyond their knowledge or control. This situation also causes an unwarranted negative history to be created, which can be held against the tenant in future disputes.

2.2.3 Lack of Accountability

A common problem for Indigenous tenants lies in Homeswest's failure to document all actions in relation to a tenancy. For example no record is kept of requests for maintenance and repairs, rather the "Maintenance History Report" records only when job orders were issued. Similarly, tenants who speak with Homeswest about a matter, often later find to their detriment that no record was made of the discussion or the action agreed. Homeswest often rely on the fact that there is no record of a tenant's claim to justify a failure to respond appropriately to a situation. The only matters routinely recorded on Homeswest files are those matters which represent a breach by the tenant.

2.2.4 Determining charges

Homeswest policy provides that the level of rent is set according to the tenant's income and that no tenant pay more than 25% of household income on rent. Homeswest policy

also provides that the tenant may be charged an additional 5% of household income towards payment of other charges such as water consumption. Therefore, no tenant should pay more than 30% of his or her household income to Homeswest.

Sadly the reality can be quite different. Household income is not calculated on the actual income, but rather on a deemed rate. This negatively impacts on Indigenous tenants where:

- Young people who may be eligible for statutory allowances but have chosen not to apply or have failed to reapply to Centrelink, are deemed to be receiving those monies.
- Tenants whose statutory benefits have been suspended or reduced are deemed to continue to receive the full payment.
- Tenants whose statutory income is being garnisheed, for example to pay fines, are deemed to continue to receive full payment.
- Temporary visitors who are not contributing to household income are deemed to be in permanent occupancy.
- Tenants who are self-employed but temporarily without any income are deemed to be continuing to receive a standardized income.

A number of Indigenous families are paying full market rent for tenancies due to the number of occupants. Were those families to be renting in the private rental market they would be eligible for rent assistance. However, because they are in public housing they receive no assistance with housing costs. Such families often find themselves struggling to pay a level of rent which is in excess of what would be charged for similarly run-down premises in the private market.

It is not uncommon for Indigenous tenants to be paying well in excess of 30% of their income to Homeswest to avoid eviction. Families often find themselves without enough money to meet basic needs because of Homeswest's demands. A typical case example:

The family were paying their rent plus extra for water up to 30% of their income by direct debit. They received a visit from a Homeswest officer demanding that payments increase because the water account would not be cleared before the next one was due. The family was told that if they did not comply with Homeswest's demands their tenancy would be terminated on the grounds of arrears. In order to comply with Homeswest demands the mother goes without medication and diet necessary to control her diabetes.

2.2.5 Direct debiting of statutory benefits

Homeswest requires, as a precondition of tenancy, that the tenant sign an authority for any Centrelink payments to be direct debited. Indigenous tenants often view this as a satisfactory arrangement as it assists them to maintain their account in good order. However, the Centrelink authority form contains a clause which allows Homeswest to increase deductions without prior reference to the tenants. Many Indigenous tenants have experienced the shame and embarrassment of finding themselves at a supermarket checkout, unable to pay for their purchases because Homeswest have increased deductions without their knowledge.

2.2.6 Legal action as a management tool

It is Homeswest practice to commence legal action against tenants alleged to be in breach of their tenancy agreement. In many cases the tenant will then enter into an arrangement to remedy the perceived problem. In such cases Homeswest will not agree to withdraw their legal action. Instead they ask the court to adjourn the matter “sine die”. Should the tenant fail to maintain the terms of the arrangement, legal action will recommence. This is a particularly oppressive practice which leads to many Indigenous families living in fear of legal action over extended periods of time.

2.2.7 Redevelopment projects

In an effort to improve the quality of public housing, Homeswest has entered into large-scale redevelopment projects. Unfortunately the projects have a particularly adverse impact on Indigenous tenants, for example:

- In order to improve the image of public housing in redevelopment areas, increasing numbers of breach and termination notices are served in relation to the standards of the front yard of the tenancy. This places Indigenous tenants who struggle to maintain “street standards” at risk of eviction.
- There is considerable evidence of increased evictions in redevelopment areas, linked to Homeswest’s need to free up properties for refurbishment and sale.
- Tenants with a “poor tenancy history” are often told that they will have only minimal maintenance carried out at their tenancy, while around them other properties are upgraded and improved.
- Tenants have difficulty getting maintenance and repairs done because Homeswest is reluctant to expend funds on premises which are earmarked for future redevelopment.
- Tenants find it very difficult to get information from Homeswest as to how the redevelopment project may affect their tenancy. Often they are told only that it is

difficult to say – it could be five months or five years. This leads to long term uncertainty.

- Transfers under redevelopment programs often lead to loss of support networks and relocation to outlying suburbs with few services and facilities.
- Cultural factors are not given consideration under the redevelopment projects. A case example from TAS files:

The family were offered a transfer to premises which were being refurbished. They were pleased with the offer as the new house had a large family-room which would be eminently suitable for extended family who visit frequently. They began to pack up their belongings which they had accumulated over many years at the one tenancy. Unfortunately, problems caused by Homeswest contractors led to a delay of 10 months before the keys were available. The family was disappointed to find that all the windows in the family-room had been removed. On raising their concerns with Homeswest they were told that there was never any intention to expend funds on the room. However, considerable expense had been spent on laying vast areas of the corner block with fine grass and a reticulation system requiring 10 station changes to water off the mains. With TAS' assistance the family were successful in negotiating with Homeswest Executive for the family-room to be made good. However, Homeswest does not agree that the lawns are inappropriate and likely to lead to financial difficulties to maintain. Two months after taking occupancy the windows have still not been installed in the family-room.

2.3 Supported Housing Assistance Program

Homeswest funds the Supported Housing Assistance Program (SHAP). Homeswest may require tenants to participate in SHAP as a prerequisite to provision of assistance or suspension of eviction procedures. The vast majority of SHAP clients are Indigenous people.

Tenants and the public are given to understand the purpose of SHAP is to provide assistance to the tenant, however:

- There is a conflict of interest in determining the client of SHAP services – is it Homeswest or the tenant?
- Many SHAP workers are uncomfortable in meetings where they are required by Homeswest to “report” on tenants.
- The report format does not provide for the documenting of Homeswest’s contribution to difficulties experienced by the tenant. For example, the SHAP worker must provide a written report on “standards” kept by a tenant, while there is no place to document the facts when the standard of the premises is due to the structural condition of the premises.

- TAS is aware of SHAP services' funding being threatened after arranging for legal assistance for tenants.
- TAS is aware of SHAP workers being instructed to withdraw services from tenants against the recommendation of the SHAP worker.

2.4 Homeswest's review and appeals mechanisms

2.4.1 The Homeswest Appeals Mechanism

The Homeswest Appeals Mechanism (HAM) is a three tiered review process. In brief:

- The first stage of the process is an automatic review of any adverse decision by another officer;
- the second involves an application for a committee to review the decision with the applicant having the right to appear before the committee comprising a senior Homeswest officer and a community representative; and
- the third is a review of documentation by an independent panel, appointed by the Minister for Housing, however a number of significant decisions are barred from review at this level.

The HAM presents a number of difficulties for Indigenous tenants:

Tier 1

- Many decisions are not automatically reviewed, for example the decision to issue a breach notice or charge "tenant liability" (the cost of repairing damage alleged to have been caused or permitted by the tenant). Due to low literacy levels and the lack of information in an accessible and appropriate format, Indigenous people are often unaware they can ask for a decision to be reviewed.
- Indigenous people who are aware of their rights often choose not to challenge a decision because of well-founded fears of retaliation by Homeswest, especially if other members of their extended family are in dispute with Homeswest.

Tier 2

- A written application is required for an appeal hearing. This can be very difficult for people with low literacy levels. Demand for assistance with appeals exceeds the community organisations ability to respond. Homeswest provides no funding for advocacy services. There are no independent advocacy and advice services specifically for Indigenous tenants in WA, as there are, for example, in NSW.

- If the appeal relates to tenant liability, the tenant is required to address each individual item in writing. In the case of “vacated tenant liability” (charges to carry out repairs to a home following vacation), applicants may have to address hundreds of items. Many of the items relate to structural problems with the building which tenants have neither the knowledge nor the skills to articulate.
- If the appeal relates to an application for priority assistance, the applicant is required to provide extensive supporting documentation. A letter from a doctor which details health problems is insufficient to convince Homeswest. If the doctor fails to address how the health problem relates to the tenant’s current housing circumstances, the appeal will fail. Further, the committee members have no expertise in health matters. These factors contribute to the number of Indigenous applicants who fail in their appeal.
- Appeal hearings are held in Homeswest offices and, in the experience of advocates, are largely dominated by the Homeswest Officer. This lack of independence discourages Indigenous people from seeking a review. Many that do seek a review feel constrained by the environment and have difficulty speaking up.
- Decisions are reviewed exclusively in line with policy. However, as indicated below most Indigenous tenants are completely unfamiliar with Homeswest’s many policies and have difficulty accessing the information.
- Little training is provided to the community representative on the appeals committee. A recent review of HAM revealed a lack of awareness of Homeswest policy by community representatives.
- Debt management overrides all other considerations in review of an application for housing assistance. While Homeswest has a Discretionary Decision-Making policy, TAS and other community workers are all too familiar with cases where Indigenous people in life-threatening circumstances have been refused assistance because of a debt.

Tier 3

- Appellants do not have the opportunity to appear before the appeals panel. Review is conducted only on the documentation forwarded by the regional office where the decision was made. Indigenous people with low literacy levels and without access to advocacy services are unable to make any further submission to ensure all relevant matters are brought to the attention of the panel.

Successfully appealing a Homeswest decision often involves:

- Seeking release of documentation under Freedom of Information;
- Interviewing the tenant, their family and witnesses;

- Conducting inspection of the premises and documenting conditions;
- Carrying out research on the issues in question;
- Examining, analyzing and cross referencing the FOI documentation to policy, the tenants recollection of events, witness statements and supporting documentation;
- Constructing a submission which collates all the relevant information;
- Speaking to the submission.

Such a process is beyond the capacity of many Indigenous (and other) appellants.

In the case of tenant liability or water charges, if the tenant is unsuccessful at tier 2, their only options are to accept the charges or challenge the decision through the Small Disputes Division of the Local Court. Tenants are not entitled to representation in this forum either and without advocacy services often choose not to challenge the decision through the courts.

2.4.2 Lack of independent review of decision making

There are a number of Indigenous families currently housed by Homeswest who have been identified as being problematic and their file marked for management review. These tenancies are closely scrutinized and all actions monitored by senior Homeswest officers. Should such a tenant wish to appeal against a Homeswest decision, particularly in a Regional area, they cannot be confident that the officer reviewing the decision has not had some previous input into the making of that decision. In such circumstances there is a clear risk of bias.

The only recourse for Indigenous tenants who believe that an administrative injustice has occurred, is to make a complaint to the State Ombudsman. Unfortunately, it is TAS' experience that such complaints are not given due consideration. For example, we currently have complaints with the Ombudsman, one going back 12 months, on which no action has been taken to our knowledge. Western Australia does not have an Administrative Appeals Tribunal.

2.4.3 Lack of Access to Information

Any review of decision-making is undertaken strictly within the terms of Homeswest policy. However, few Indigenous tenants are familiar with Homeswest policy. Copies of Homeswest policy are only available over the internet, to which few Indigenous tenants have access. Indigenous tenants can request copies of policy, but this is difficult when they don't know what policies exist.

It is not uncommon, for example, for Indigenous applicants to be refused transfer on the grounds of debt. However, they are unable to argue their case in terms of the Discretionary Decision-Making Policy or the Duty of Care policy if they don't know the policies exist. Similarly, a tenant charged for accidental damage by a child cannot ask for the terms of Homeswest's Insurance policy to be adhered to if they do not know the policy even exists.

References

Homeswest (1999) Annual Report 1998-99

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Ministry of Housing (undated) Capital Works Program 2000/2001

Shelter WA (2000) *Housing for a Sustainable Community: The State of Housing in Western Australia*

Wallwork, H (Justice of the Supreme Court of WA) *Martin v State Housing Commission*, Unreported decision of the Supreme Court WA [1998] WASCA 58

PART 3 - Inquiries & Reports

Problems with the delivery of housing to Indigenous people in Western Australia have been extensively documented and reported over a considerable number of years. Government and quasi-government inquiries and reports touching on this area include:

Report of the Working Party Report into the Eviction Procedures of the State Housing Commission [Western Australia] (1983) (The McDonald Report)

Key recommendations made in the McDonald Report included:

- The establishment of Tenancy Conciliation Committees to promptly and informally consider, and attempt to conciliate, arrears and behaviour problems; and
- Tenancy Review Committees to more formally consider those matters which cannot successfully be conciliated, and, in place of court proceedings, either dismiss a request for eviction, or impose conditions, or as a last resort order eviction.

These recommendations were made prior to the *Residential Tenancies Act 1987*. For a brief time a truly independent appeals mechanism was instituted - the Homeswest Independent Appeal Tribunal (HIAT). It was housed separately to Homeswest in an accessible and appropriate venue. The length of time it took to conduct reviews and resulting backlog of appeals was seen as a reason to close down the Tribunal and not to increase funding and resources.

More recently the Homeswest Appeals Mechanism (HAM) has been established. It is evident for all the reasons given above (under the section 2.4 on Homeswest's review and appeals mechanism) that access to a court or to HAM to contest eviction are not effective means to obtain procedural fairness, independent judgment or consideration of welfare issues for Indigenous tenants.

Report to the Commissioner for Equal Opportunity on Discrimination by Homeswest (undated, written circa 1985, released 1995) by Stephen Walker pursuant to section 80 of the Equal Opportunity Act 1984 (WA)

Key recommendations made in that inquiry were that:

- Staff vacancies in the Housing Services Directorate be opened to application outside Homeswest and outside the Public Service generally. This was suggested in order to halt staff knowledge of policies being based on long experience within the organisation - and hence being unresponsive to policy developments. (Recommendation 1)

- Homeswest abandon the policy which excludes from Emergency Housing Office assistance applicants who have a current debt with Homeswest, or who allegedly have created or contributed to their own hardship, or who have an alleged previous history of anti-social behaviour. (Recommendation 13)
- Homeswest abandon the policy by which an applicant cannot be housed until he or she has paid 100 per cent of rental arrears and 50 per cent of tenant liability. (Recommendation 14)

Many of the key figures in Homeswest today are the same as in 1985. Homeswest still excludes applicants from Emergency Housing or other housing on the basis of prior debt etc, although this was found to constitute indirect discrimination 15 years ago.

Regional Report of Inquiry into Underlying Issues in Western Australia (1991)
 Commissioner P L Dodson, Royal Commission into Aboriginal Deaths in Custody

Key findings made in that Inquiry relating to housing were:

- That complaints about housing from Aboriginal people in this State were not rare or new, that the area was well researched and documented, but that Government had failed to act. Recent reports cited included the Equal Opportunity Report referred to above (which was not to be released until 1995, apparently through a Freedom of Information application); an AAPA Inquiry into services to remote Aboriginal Communities (1990) and another report by the Equal Opportunity Commission into Essential Services to remote Aboriginal Communities (1990).
- Based on the Henderson study (1977), the Aboriginal Affairs Planning Authority Report (AAPA) (1981), data on Aboriginal rental applicants provided by Homeswest (1990) and evidence before the Commissioner relating to the number of homeless Aboriginal people throughout the State, Indigenous public housing needs continued to far outstrip supply.
- Aboriginal people primarily have to exist on some form of social security payment and as a consequence have no choice but to seek access to accommodation through government instrumentalities where discriminatory attitudes were evident.
- The proposed establishment of an independent Appeals Tribunal to hear complaints against Homeswest was to be welcomed as enabling consideration to be given to the views and experiences of Aboriginal people.
- A case study highlighting the difficulty of existing Homeswest policies in the context people who bear enormous kinship and social responsibilities because of their culture and the serious disadvantage and dislocation of family members. Such policies included: those relating to maintenance and repair work at residential tenancies and

the requirement of payment for "negligent" damage for people living in poverty; lack of heating and floor covering for people suffering from chronic health problems.

As evident from the preceding sections of this submission little has changed. Complaints continue to be well documented but not acted on; the demand for Aboriginal public housing continues to outstrip supply; an independent Appeals Tribunal still does not exist; Homeswest policy continues to be indifferent to the social and cultural context in which Indigenous tenants find themselves.

National Report of the Royal Commission into Aboriginal Deaths in Custody, (1991) Royal Commission into Aboriginal Deaths in Custody

A stark finding of the Royal Commission was that:

A recurring theme in the individual case reports that have been published by the Royal Commission is childhood separation of the deceased, largely as a result of "care and protection" orders made in response to housing conditions.

Racist Violence: Report of the National Inquiry into Racist Violence in Australia (1991) Human Right and Equal Opportunity Commission

Key findings and recommendations relevant to housing in this Report include:

- A significant level of racist violence takes place in public housing estates, although this problem was under-reported in Australia.
- Racism permeates the day-to-day lives of Aboriginal people either through direct acts of violence, intimidation and racist abuse, or through the more insidious processes of discrimination.
- Racist violence, intimidation and harassment against Aboriginal and Torres Strait Islander people are social problems resulting from racism in our society, rather than isolated acts of maladjusted individuals.
- Racist attitudes and practices (conscious and unconscious) pervade our institutions both public and private.
- That private housing industry develop and implement an anti-racist code of practice for members
- That public housing authorities develop and implement anti-racist policies and strategies for all housing estates.
- That anti-racist strategies include the employment of bi-cultural and community workers, the establishment of structures to resolve disputes between neighbours and

deal with racist harassment and violence, and the promotion of good community relations.

- That managers of public housing authorities and estates be required to ensure that all residents are able to enjoy a neighbourhood free from racist violence, intimidation and harassment.

Again, reference to the preceding sections of this submission indicates the lack of effective measures to address these findings or to implement that Inquiry's recommendations.

Mainly Urban: Report of the Inquiry into the needs of urban dwelling Aboriginal and Torres Strait Islander people (1992) House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs

The predecessor to the current Inquiry, the Committee advertised nationally, sent out more than 700 letters to Aboriginal communities, other organisations, politicians inviting written submissions. It held 11 days of public hearings and conducted some 85 additional informal discussions and field visits throughout both metropolitan and regional Australia. A comment about Western Australia by one of the Committee members, quoted in the report was:

We have got situations where the type of housing being required is probably more appropriately described as historic than livable. We have got examples quoted where maintenance is slow, inadequate, and the money being paid to the contractors, excessive. We have had examples where tenants having moved out are being charged large bills for alleged maintenance work having to be done when they moved out. That work is either not being done by the time the subsequent tenants come in, or, in one case, the house was actually knocked down to make way for another building. However, the tenants were still charged for the maintenance work which one suspects was never done in the first place.

The findings and recommendations of the Inquiry were extensive and included:

- Appropriate funding to address the backlog of housing needs be available over the next 10 years;
- Negotiations take place with tenants prior to construction of houses to determine design needs and the number of people likely to share the house;
- That until sufficient housing is available multiple family occupancy not result in additional rent charges;
- Adequate quality control being exercised over the construction of Aboriginal and Torres Strait Islander housing and its maintenance and repair, including timeliness;
- The conduct of pre and post-tenancy inspections.

In spite of these recommendations, in TAS' experience the Committee member's comments remain equally as apt today as they were 10 years ago.

Provision of Services to Aboriginal People in Western Australia the Issues, an Action Plan and Proposed legislation - a Paper for Discussion (1996)
Aboriginal Affairs Legislative Review Reference Group

Based on the recommendations of the Chief Executive Officer Working Party on Essential Services (the Hames Report) and the Task Force on Aboriginal Social Justice (the Daube Report), the proposals concerned the development of a comprehensive action plan, developed in full consultation with Aboriginal communities, to co-ordinate the resources and efforts of Commonwealth, State and Local governments to address deficiencies in provision of essential services to Aboriginal communities. Issues which were to be addressed through the report included:

- Aboriginal people in metropolitan and other urban areas generally have access to most essential services but there are impediments to their use of those services.
- Community planning town layout plans, dwelling design and service provision generally must have regard to family and cultural factors which can result in large, temporary fluctuations on community populations and in the number of persons associated with individual dwellings.
- Outlays on provisions of basic services and housing to Aboriginal communities have not been supported by regular maintenance and this has resulted in early breakdown and costly replacement.

While some initiatives have taken place in relation to more remote communities, access, appropriate housing design and adequate maintenance remain a problem in more urban contexts and in particular for Homeswest tenants as indicated in the preceding sections of this submission.

Fourth Report 1996, (1996) Aboriginal and Torres Strait Islander Social Justice Commissioner

The *Fourth Report* by the Commissioner had a particular focus on housing issues, which he ties to the removal of children from their families, poor health, substance abuse, involvement with the criminal justice system and deaths in custody.

The Commissioner found that 31 per cent of Indigenous people rely on public rental housing compared to 6.8 per cent of the non-Indigenous population. Specifically in relation to Homeswest, the Commissioner found:

- The recent push to corporatise the public service has led to the reform of its operations in line with commercial business practices and an increased emphasis on economic imperatives.

- The quest for profit or even cost recovery can be incompatible with Homeswest's mission of ensuring Western Australians have access to housing.
- That recent eviction statistics indicate that eviction practices of commercial real estate agents had been adopted by Homeswest.
- That the economic benefits of evictions are misplaced and shortsighted. Rental arrears and tenancy debts will be lost if eviction occurs; moreover, that the costs associated with the eviction are dear – “manifested in dollar terms in the criminal justice system, welfare agencies, schools and hospitals, and the flow on social costs”.
- If the maintenance of Homeswest as a viable economic entity becomes the cornerstone of public housing provision, those most in need of housing in Western Australia will inevitably be excluded from it.
- That Homeswest's failure to maintain adequate data and thereby avoided accountability and the testing of its policies for their discriminatory impacts.
- By treating all clients generically, Homeswest fails to take into account the specific issues facing certain groups and fails to deliver equitable outcomes.
- Homeswest policy does not require the decision-maker to consider the health impacts of a decision to evict upon the tenants.
- Aboriginal people are often evicted by Homeswest for anti-social behaviour, many on the strength of neighbour complaints (which may be racially motivated), without allowing the people involved to answer claims that they have behaved in such behaviour.
- Overcrowding is often the result of eviction of other Aboriginal families and inappropriate housing.

In spite of specific recommendations of what an adequate housing policy would look like, little has changed since the Commissioner's report.

***Bringing Them Home - The Report (1997)* Human Rights and Equal Opportunity Commission**

The Commission found that Aboriginal people have problems accessing adequate housing primarily for three reasons:

- The philosophy, policies and practices of Homeswest;
- The difficulty obtaining private rental accommodation; and
- The practice of allocating housing to Aboriginal communities in remote and fringe areas of the State.

Report of Inquiry: Homeswest (12 May 1999) Office of the Public Sector Standards Commissioner [Western Australia]

The Commissioner found that Homeswest, in releasing information to news media about an individual Indigenous public housing tenant, had breached Section 9(b) of the *Public Sector Management Act 1994* and the Western Australian Public Sector Code of Ethics.

No action has ever been taken against Homeswest as a result of the Commissioner's findings.

Housing Assistance Act 1996 Annual Report 1997-1998 (2000) Department of Family and Community Services (Cth)

The Report was issued as part of the Commonwealth State Housing Agreement 1999, which "contained strategic planning and performance measurement requirements, which increased accountability and transparency of State operations." There are a number of omissions in relation to performance indicators for public housing assistance programs and identified housing assistance program for Western Australia.

More problems are encountered in light of the some of the actual performance indicators used. For example, the standard for assessing overcrowding is such that there can be no "overcrowding" of a residence with four bedrooms. Given that many Indigenous tenancies are, for a variety of reasons, multi-family tenancies this performance indicator is misleading in terms of whether Indigenous tenants' requirements are being met. Another problematic indicator concerns the percentage income paid by rebated public housing tenants. As discussed in the above section 2.2.4, Homeswest policy of deeming tenants to be in receipt of income they do not in fact receive means that this measure in reality can be quite meaningless.

Inquiry into the Needs of Urban Dwelling Aboriginal and Torres Strait Islander Peoples (2000) House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs

Committee Chair Lou Lieberman reportedly said of this Inquiry "It's a great opportunity for Indigenous Australians living in urban areas to let the Federal Parliament know how programs and services available to them are working." Other information provided in relation to the present Inquiry states that "Its goal is to ensure that Aboriginal and Torres Strait Islander people are involved in deciding what sort of assistance would be most useful to them."

The methodology of the Inquiry appears not to be fitted for these purposes. The Inquiry was advertised in the media on one day only. The website indicates that there have been only two press releases associated with the Inquiry, including only one press release concerning a public hearing. The emphasis in material associated with the Inquiry is on written submissions, a not particularly apt way of obtaining the views of a group of people, many of whom have considerable problems with literacy. Moreover, the original

time-frame for submissions was very short - being announced on the 6th of September 2000 with an end date of 13 October 2000, just five and a half weeks.

In addition to the one day of advertising and two press releases, information was also available on the internet - again not a particularly apt mechanism for ensuring access by the most disadvantaged group in Australia, as discussed in relation to TAS' comments about Homeswest. Although an extension in the time period for submissions has been allowed until the 24th of November, this has not been publicized in any way. Notice of the extension is only available via the internet or if someone rings Canberra and inquires. While telephoning Canberra without access to a free-call number may not be an issue for organisations intending to make a submission it is a different matter for people who have consistently been found to be one of the poorest groups in our society.

It is difficult to assess whether these deficiencies have been addressed through a broad consultative process as undertaken by the previous Inquiry committee, which produced the "Mainly Urban" Report (refer above). The only information available relates to one public hearing conducted in Perth on 27 September 2000. It may be that the Committee did undertake extensive informal discussions and field visits. However, in the absence of any accessible information to indicate otherwise, the rumours are circulating that in Western Australia the Committee only undertook consultations in Margaret River, a well-known winery and holiday region in WA and an area not known for a high concentration of Indigenous residents. Although TAS' is aware that the Committee did visit other locations, such as Dongara, TAS received this information from individual Indigenous people who only became aware of the visits after the event. If this is correct, it is difficult to see how the methodology adopted by this Committee would enable its members to consult with the consumers of programs and services its terms of reference targeted or permitted ordinary urban Indigenous people to have substantial input into this Inquiry.

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- Working Party Report into the Eviction Procedures of the State Housing Commission [Western Australia] (The McDonald Report) (1983) *Report of the Working Party Report into the Eviction Procedures of the State Housing Commission*

PART 4 – Conclusion

Although this document, like many of the reports and inquiries referred to in Part 3, is highly critical of Homeswest it is not intended as an attack on all Homeswest staff. TAS is aware of difficulties confronting Homeswest workers. These include a lack of resources so that, for example, as indicated in section 2.2.1 accommodation managers have far too many properties to manage in addition to a large amount of stock which is run-down. TAS is also aware that Homeswest is making its best efforts to address the run-down nature of its stock through redevelopment, although sadly it is the same redevelopment policy which has resulted in extreme hardship to some of our clients. (See section 2.2.7.) We believe the current lack of clarity about the role of Homeswest in terms of the often-competing objectives of assisting disadvantaged tenants and of managing economically valuable assets puts many Homeswest workers in an invidious position. Moreover, it is only because of the racism in the broader community and poverty that Indigenous people are so dependent upon Homeswest services and vulnerable to its failings.

Be that as it may, it remains the case that reform of Homeswest is a critical matter for many Indigenous families – quite literally a matter of life and death. It is hoped that the present Inquiry will not be just another addition to what is already a too long list of ineffective inquiries and reports. Ineffective either because of inadequate and inappropriate consultation with Indigenous people, so that their experiences and recommendations are excluded in practice; or because of a simple lack of political will to implement internationally recognised human rights principles.