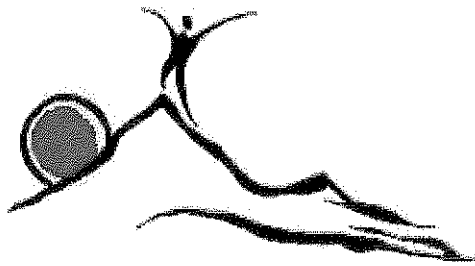


PILBARA COMMUNITY LEGAL SERVICE Inc.



**SUBMISSION TO
SENATE SELECT COMMITTEE ON HOUSING AFFORDABILITY IN
AUSTRALIA**

Monday 07 April 2008

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Foreword

Community Legal Centres (CLC"s) offer effective and creative solutions to legal and social problems based on their experiences with their local communities. It is the relationship CLC"s have with their surrounding communities that make them such vital organisations.

CLC"s listen to the needs of the local communities, learn from their experiences and support their solutions. All areas of work CLC"s undertake are about basic human rights from housing and income security to safety from violence; freedom of association to our right to a peaceful and sustainable future.

Organisation Overview

Pilbara community Legal Service (PCLS) is a not for profit organisation that currently provides financial counselling, tenancy advocacy, supported housing assistance and community legal advice services throughout the Pilbara Region. We have offices located in the towns of South Hedland, Karratha, Newman and Roebourne. These offices also service outlying Aboriginal Communities and have established protocols with these communities to provide access to justice, advocacy and legal education.

PCLS has become a key point of reference for low income and disadvantaged consumers experiencing problems with housing affordability, housing access, and financial counselling.

A final element of the service is the aim to raise the awareness of both community members and government and non government agencies regarding the rights, responsibilities, issues, practices and outcomes for the target group of clients that we assist.

We offer the following observations:

The Resource "Boom" has created a new socio-economic polarisation scenario with the inclusion of a nucleus of working poor.

The lack of affordability of housing has seen an increase in the client base that includes not only the unemployed but also those in employment who are struggling financially due to their efforts to pay high rentals or mortgages. In

order to maintain the housing associated payments, presenting financial counselling cases that once were the unemployed or low income now include the middle-income employed who are unable to meet essential service costs and in many instances purchase food without the use of credit.

1) Insecurity of Tenure Private Rental Market

We believe the situation with private rental of housing in Karratha to be unique due to the high level of Resource Industry developments. The Resource Industries are prepared to pay large weekly rentals for accommodation for their workforce in order to ensure good retention. Because of this, some families are unable to match the level of rent and it has become, in some instances, almost a bartering system to obtain private rental housing with the tenancy naturally going to the highest bidder. Often the Tenancy Agreements are for short Fixed Terms leading to insecurity of tenure for anything more than 6 months.

2) Affordability/ Public and Private Rental Market

The difficulties for most working families and individuals is their inability to meet the high level of rents being demanded in the private rental market i.e. on average \$800 per week. However, because of the level of their earned income, they are above the threshold for public rental. *"A tenant must during the period of tenancy remain eligible for assistance as determined by the Department of Housing and Works. Tenants who become income ineligible after occupation are in breach of their tenancy."*

Case Example

Mr X has lived in his public housing Tenancy in Karratha for more than 20 years. Originally a single father with three children, he worked all his life, struggled to raise his children on his own with no financial support from the children's mother who left the family household and Karratha when the children were very young. He regards Karratha and the house where he has raised his children as "home". His children are now grown up and have all left home. Occasionally they return to visit their father who now lives alone. He has a job he enjoys with one of the contractors for one of the large resource companies and for the first time in his life is not struggling financially. He advises the Department of the changes in his financial situation (\$769.50 gross per week) and his rent is increased proportionately (\$218 per week). It is then discovered that his earnings have taken him over the income threshold (\$610 per week) and he is served with a notice of termination of his tenancy agreement from a house where he has lived for more than 20 years. To retain his home he reduces his working hours from 40 hrs per week to 28 hrs per week which sees him back struggling financially. He applies to the Department to purchase the house. Because the purchase has to be at the current market value (\$450,000) and because of his age, he is unable to obtain a loan to purchase the house. The options he sees are to give up his employment, register for a Centrelink Allowance which will enable him to

retain the tenancy or if he vacates, but where will he go and where will he get another job?

Can areas like Karratha be treated in isolation where someone who has lived and paid rent in a Department tenancy for a number of years can be allowed to purchase their home with due consideration to the years they have occupied the tenancy ?

3) Employment Contract/Tenancy Agreements

Individuals and families living in Karratha are often housed in company housing attached to the employment contract of the income earner.

If the employee is employed by one of the large resource companies, the company will also meet the relocation costs for the family – travel, relocation of vehicles and household effects. There are also instances when they arrive they are provided with the financial resources to install a swimming pool or purchase a boat (fringe benefit).

Unfortunately instances of relationship breakdown where company housing is involved are becoming more frequent and in some cases there is domestic violence. Presenting cases show that this takes the form of physical, mental and financial abuse, related to alcohol/drug/gambling/lack of anger management and/or a combination of one or the other. The abusive partner will ask the other (usually wife) to leave the family home or as a result of the domestic violence she is compelled to leave the family home. In most cases there are also children involved. Where does she go? The women's refuge and the Department of Housing and Works are well aware and have clear statistics on these instances that are growing in number putting extreme pressure on many local social services.

Discussions with the private sector to try to establish whether the housing is provided specifically to the employee under the employment contract or to **"you (the employee) and your family"** bring the response – *"what happens in the family home is a private matter and of no concern to the employer"*.

When a Violence Restraining Order is granted by the Court to the victim of domestic violence who is living in a Department of Housing or GEHA tenancy, the VRO enables them to support the victim to remain in the family home. In a situation where the family home is tied to an employment contract/tenancy agreement, a Violent Restraining Order granted by the Court to the victim does not provide for any tenancy security because it is allocated by the Company to the employee (i.e the perpetrator).

Case example

"Maria's story"

Mother with three children is the victim of a domestic violence situation (alcohol related) involving physical, mental and financial deprecation. The company home is owned by the resource company for whom her husband works. The home environment is creating issues for her children, especially her eldest daughter who, as a result, requires psychiatric help. Maria leaves the family home with her children to stay in the women's refuge and the assist Maria to obtain a Centrelink Allowance and public housing via Homeswest. She lives in the Homeswest house for 18 months during which time she finds herself employment. She takes out a personal loan to be able to pay for airfare and specialist psychiatric support in Perth for her eldest daughter. Things improve and she reconciles with her husband. Maria gives up her Homeswest house and returns to the company house to live with her husband and the father of her three children. She maintains her employment. Six months later the abuse begins again and any reluctance on her part to give up her earnings in support of her husbands drinking habit brings more violence. She is unable to support her children and unable to pay her personal loan, her daughters condition deteriorates she becomes suicidal. Maria tries again to obtain Homeswest housing in order that she can remove herself and her children. She is now earning too much money and above the threshold for public housing. She is not earning enough money to move to the private rental market and all her earnings are being removed from her while she remains with her abusive husband. She and her children are still there and she has lost hope. Her option. Give up her earned income and her job which provides security for her and her children and accept a Centrelink Allowance which will bring her into line with the income level for Homeswest (public) housing on a wait turn basis (2 years).

In August 2006 a request was made to the WA Minister for housing to give consideration to the implementation of some emergency housing to assist families in such predicaments and/or grant local area management an extension in their discretionary decision making role to enable local arrangements of possible 3-6 months fixed term tenancy agreements to provide shelter for victims and children in such circumstances to be removed from such situations. We also requested the Minister to consider the arrangement of a round table discussion with representatives of local resource companies to commence dialogue to look at possible solutions to this growing social problem which is, without doubt threatening the social fabric of the community?

4)Employment Contracts/Residential Tenancy Act

We are currently assisting three families, in Karratha, Wickham and Newman, all of whom are in housing provided as part of the employee's employment contract. Employment has been terminated. There is nothing in the

employment contract that relates to the requirement for due notice of their Tenancy Agreements. In all instances, there is no Tenancy Agreement between the tenant and the employer. The Tenancy Agreement is between the Estate Agent and the Employer. In all instances, the terminated employee has been given 24 hours to vacate the tenancy.

Case example 1

Bob is married with three children – all are in high school. He collapsed at work and was taken to hospital with a suspected heart attack. Sick leave was advocated by his GP. On his return his employment was terminated. The employment contract provided for a Company leased or owned house as part of the remote area location arrangement. There was no Tenancy Agreement and no mention of the amount of tenancy termination notice to be provided by either party in the "Housing" clause of his Employment Contract. We must therefore assume that the Company as the owner or lessor of the property are governed in this area under the Residential Tenancies Act which under a fixed Term Tenancy Agreement calls for Notice of Termination under Section 64(1&2) to be not less than 60 days. The family at best therefore have 60 days to find another tenancy to rent which will cost them at least **\$800 per week** and the only income they now have is Centrelink Newstart (*\$387.80 per fortnight + Remote Area Allowance \$37.50 = \$425.30 and Family Tax Benefit \$449.68 per fortnight – a total of \$874.98 per fortnight*) Their current power account is \$1,328! An application to the Department of Housing and Works for priority housing has been denied.

Case example 2

Jane and her husband and two children aged 6 and 8 are in a company house. Jane's husband was taken ill and as a result is unable to work. They have been advised that his illness is terminal. Jane has taken on employment to support the family. She has no idea what she will do or where they will live when the inevitable happens. Meantime, she is struggling to cope with a myriad of medical bills and essential service bills. It has been necessary to secure emergency relief assistance for this family.

Case example 3

Lisa has three children aged between 3 and 9. Her partner's employment contract has been terminated. He has the opportunity of alternative employment but the only housing attached to this is "single-men's quarters". They search to purchase a house but could not secure a property and the requisite loan within the 60 days (*which we had negotiated via the RTA with the employer*). The employer was leasing the tenancy from the Estate Agent. The owner of the property had advised the Estate Agency that they required the property for their son and his family because he had secured employment in the area. The purchase of a suitable property was progressing, but the tenants in the property they were purchasing although on a fixed term lease

and provided with the requisite 60 days could also find no-where else to live. Three families were affected and the ultimate decision was made by the Court after several adjournments when the Magistrate sought advice on the Act which left the decision in the arena of "*which party was subjected mostly to undue hardship*".

Employment contracts between an employer and employee need to include a tenancy clause respective to the requirements of the Residential Tenancy Act.

5) Shortage of Public Housing Accommodation/overcrowding

There appears to be an acute shortage of public housing and to a large extent inappropriate allocation of public housing. Single people are tenancing three bedroom public housing tenancies and in some instances in breach of their tenancy agreement and capitalising on the shortage of accommodation by renting out two bedrooms at \$300 per week. Families are missing out.

There are numerous examples of over-crowding, (especially in the township of Roebourne).

Case example

Three families' nine adults and eleven children are living in the same three bedroom house. For the last two years there has been an irreparable water leak under the house. As a result the floor boards of the house are rotten. The Water Corporation has been forced to restrict the water to the property – this has created an environmental hazard and the Environmental Health Department may be required to condemn the property. Three tenancies are required to accommodate the occupants and the water consumption debt at this point in time is at \$38,000.

There is a requirement for an audit of current public housing and the building of more single houses in order to release some of the 3-bedroom houses for families.

6) Rental in-affordability/Staff recruitment/retention

Our organisation is experiencing difficulties with the provision of an effective legal advice service due to the lack of affordable private rental housing in the Karratha area. We have secured W.A. Law Society Public Purposes Trust grant to employ a full-time Solicitor based in our Karratha office. We currently have one full-time Solicitor based in South Hedland who covers the entire Pilbara. The employment of a second Solicitor in Karratha would see an extension of our legal advice/family law service being delivered specifically to the Karratha and Roebourne communities. Our Hedland based Solicitor has been provided with a tenancy by the local Resource Company BHP. The lack of affordable private rentals in Karratha has limited our ability to attract a

suitably qualified Solicitor to take up the position in Karratha. An approach was made to the WA Minister of Housing and to the Department of Housing and Works local management in the hope that some arrangement could be agreed to for our organisation to rent public housing via the Department's community housing scheme. If our organisation is able to rent a tenancy from the Department, it will make the position more attractive to potential applicants from outside the area to relocate. In the present private rental housing crisis in Karratha, there is little hope of having someone relocate to the area without the guarantee of housing and little scope within the current budget for the position for our organisation to consider private rental at its current level. We can well understand that the Department's response to our request was negative because we are acutely aware of the demand for housing on the Department. Our option is to employ a "fly-in fly-out one-week on, one week off" Solicitor in which case the financial resources for service delivery will be eaten up by air travel and accommodation costs.

We seek a partnership for the granting of the rental of public housing or GEHA or with one of the Resource companies in order that our organisation can employ a full-time solicitor. Please note the only legal services currently available in the area are Legal Aid and Aboriginal Legal Services.

CONCLUSION

Please note the issues we have raised in this document are supported by other local community based agencies such as the Karratha and Roebourne Women's Refuge, the Domestic Violence Area Management Committee, Domestic Violence and Family Relationship Counsellors

We believe there is a need to view such matters from a human rights perspective to hopefully bring about the implementation of policies to deal with the increasing complexity of social issues.

Organisations such as Pilbara Community Legal Services spend time with clients dealing with the structural affects of homelessness, leaving little time to look at the individual effects, which negates any real contribution to the overall well-being of our community?



Nanette Williams

Area Manager

PILBARA COMMUNITY LEGAL SERVICE INC

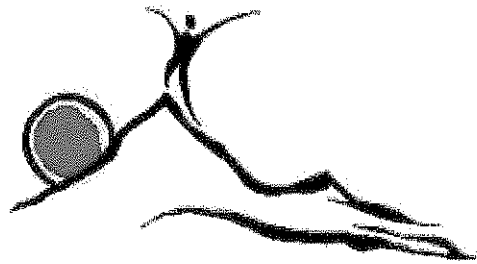
(A non-profit Government funded Community Agency)

***Attachment:**

** Copy of Informal Comment on Discussion Paper –*

Department of Housing and Works Review of Housing Service Delivery.

PILBARA COMMUNITY LEGAL SERVICE Inc.



**DEPARTMENT OF HOUSING AND WORKS
REVIEW OF HOUSING SERVICE DELIVERY**

Informal Comment on Discussion Paper

**Department of Housing and Works
Review of Housing Service Delivery**

***Informal Comment on Discussion Paper
by
Nanette Williams, Financial Counsellor, Pilbara Community Legal
Service***

Department of Housing and Works "Think Tank" conducted by Alcoa Research Centre for Stronger Families, Curtin University. Facilitated by Dr Nola Kunnen. Issues examined:

- Department of Housing and Works Referrals and Allocation Assessment
- Tenancy Support
- Tenancy Management
- Vibrant Communities
- Is a Homeless Advisory Service needed?

Comments:

- Need to take a holistic approach to clients
- Spend time with clients to attain good assessments (inclusive practices)
- People who are and have been homeless tell us very clearly that the process of exclusion and stigma they feel (experience) comes on top of the trauma that made them homeless, not to mention the daily trauma of finding somewhere safe to stay – we need to recognise the risk of contributing to process of social exclusion in the way we develop policies and deliver programs and services (inclusive practices).
- Domestic and family violence leads to homelessness for many women and children.
- There are on-going challenges faced by young homeless people while at the same time as the population ages, homelessness is affecting a more diverse group of older Australians.
- Social and individual difference continues to correlate with a higher risk of homelessness – including people with mental illness and other disabilities and those from culturally diverse backgrounds.
- The working poor!
- SHAP – has there ever been an examination of the differences in outcomes between clients who received assistance and those that did not (do not) receive assistance? There may need to be a focus on measuring the differences services make to the lives of those who do not receive support!
- People looking for somewhere to live are often dealing with other issues, dealing with Centrelink, caring for family – keeping safe or dealing with immediate crisis – Mental illness and other disabilities, lack of awareness of legal options, lack of faith in the legal system, a sense of hopelessness or despair, poor literacy and limited financial resources can also contribute to a situation where issues compound spiralling people into aggression, anger/or depression.
- People benefit from services that work with other services/agencies to provide a client focussed rather than a problem-focused approach.
- The housing and support preferences of older people are strongly linked to the need for security and a desire for independence. Security is not only

related to tenure, but also financial security (affordable housing) and more particularly to feeling safe – location plays an important part – proximity to shops, and support services. Friendly compatible neighbours play a crucial role in providing informal support as well as social interaction. Being close to family is important even if they have limited contact.

- **Priority Housing interviews** –respond flexibly to client needs rather than the client fitting into an established model.

(**Note:** Women predominantly present with tenancy issues as a result of domestic violence and men because of financial difficulty. Family or relationship breakdown is also a major contributor).

Provide 3 month Fixed term Tenancy Agreement with conditions if they reconcile.

Who should Department of Housing and Works Customers be :

1) those who are clearly homeless – priority – the homeless with children

Need a link between Housing Policies and Child Protection Policies.

(Income should not come into it in these cases – rent should then be income assessed).

2) A proportion of stock should be allocated on income based – other proportion should be needs based.

Priority Applications waitlist :

Should go automatically to a panel with rotating representation – Long-standing community members – trained and skilled.

Employment sponsored Housing – in Pilbara area where housing has been provided by the employer and DV causes homelessness (inevitably for the spouse and the children) the employer needs to accept responsibility for the family – ie employment contract housing allocation should be for “**for you and your family**”. There is no alternative housing in the are and private rentals exorbitant – nowhere for spouse and children to go even for period where possible temporary separation could see them reconciled. ??No Emergency housing??

Transfer of Tenancy in Mitigating circumstances – Policy needs to make allowances for :

Inherited tenancy in such cases as

DV or desertion

Death of Tenant etc.

Footnote: - *Get the assessment and allocation of housing right and the rest will take care of itself!!!*

Hope this is of some assistance.



Nanette Williams

Financial Counsellor

PILBARA COMMUNITY LEGAL SERVICE

Karratha Office