

April, 2013

Background

The proposed Housing Payments Deduction Scheme has arisen from a recommendation first raised in the White Paper on Homelessness released in 2008. While it is noted in the fact sheets on the current exposure draft that the recommendation was subsequently agreed to by COAG, the response from many leading community sector bodies at the time was to express considerable concern, and it was widely understood that the recommendation was not being pursued. It has therefore been a surprise that, almost four and a half years later, an exposure draft is now being consulted on.

ACOSS supports the White Paper objective of preventing tenants being put at risk of homelessness because their tenancy fails. This is particularly important when the landlord is a public housing provider. However, the proposal to address this risk by compulsory deduction of social security payments is both inappropriate and cannot be introduced with the necessary level of protections.

Issues

Removing discretion

Overall ACOSS is strongly opposed to measures that remove discretion from very low income households over the use of very limited resources to meet their needs. This leaves such households – particularly those with children – at significant risk. Faced with such constrained choices, children may be forced to go without essential opportunities, the ability to take up employment opportunities may be lost, or it may be impossible to pay for other essentials such as heating or electricity which may then be cut off.

This risk is most acute for households who are living below the poverty line. ACOSS recently released a report based on new research by the Social Policy Research Centre showing that 25% of lone parents live below the most austere OECD poverty line of 50% of median income, as do 27% of people with disabilities, 63% of people who are unemployed and 37% of people on social security payments.¹ These groups are particularly highly represented in public housing.

Crucially, the level of deduction permitted under the proposals (35%) would expose such households to both housing stress and a heightened risk of poverty.

¹ ACOSS (2012) *Poverty in Australia*: ACOSS Paper 194

April, 2013

Lack of evidence

It is a matter of concern that the decision to proceed to amend the Social Security Act has been taken in the context of extremely limited data on which to base such a policy decision. No comprehensive data is publicly available about the characteristics of those whose public housing tenancies are terminated, factors other than rent arrears or other debts to the state housing authority that lead to such terminations, or the range of other factors that may lead a public tenant to leave their tenancy and become homeless. Data of this kind is fundamental to identifying the appropriate policy measures to reduce the risk of existing public housing into homelessness.

The only data provided in the fact sheets supporting the exposure draft is that 600 public tenants a year are evicted for rent arrears or debts. This is 0.18% of the 335,000 public tenancies in Australia. This suggests that the response is disproportionate to the problem. Moreover, it is quite inappropriate to make such fundamental changes to Social Security Act to respond to such a specific problem. It is almost certain that a far higher proportion of public tenants could be caught by the criteria for state housing authorities to seek payment deductions, well beyond the proportion of at risk tenants.

Unfair burden on the formal tenant

There is a fundamental mismatch between the person whose income is subject to compulsory deduction and the occupants whose income determines both the rent and, potentially, any arrears or debt. Only the tenant named on the lease is subject to such income deduction and may be unable to recover the appropriate share of income from other household members. This is both unfair and may create considerable hardship.

Sidelining appropriate decision making

Public tenants' rights and responsibilities are secured under the Residential Tenancy Acts in each state or territory. Residential tenancy tribunals or equivalent bodies are established under such legislation to determine tenancy matters. In the case of social housing tenants, members are generally able to consider the circumstances of the case and make orders, short of immediate eviction, to manage problems such as arrears. Such orders include repayments of debts and arrears.

This is a fundamental protection for social housing tenants and, unlike the decisions to be made by the Secretary under the proposed amendments, will be informed by a detailed understanding of the circumstances.

April, 2013

However, the Housing Payment Deduction Scheme effectively allows State Housing Authorities to sidestep this protection and seek payment directly through a Commonwealth decision.

It must be recognised that public housing landlords have very strong incentives to maintain income streams, given the structural deficits faced by most public housing operations. These incentives are quite distinct from the objective of sustaining a tenancy of household that would otherwise be at risk of homelessness.

Inappropriate determination of risk

The criteria for determining when a tenant may be subject to a request by the state housing authority for deduction are far too broad, and the threshold is far too low to fulfil the intentions of the policy.

- Arrears or debt for at least four (4) weeks and a minimum of \$100 is owing; or
- Arrears or debt of \$400 or more.
- Tenant has paid their rent more than a week late or not paid the full amount at least three (3) times in the previous 12 months.

While we appreciate that these levels have been set to prevent debt escalating to a point that would lead to termination, it potentially catches a very large number of tenants – conceivably as high as ten per cent of tenancies. If there is clear data on the actual number of tenancies caught by the threshold, then it should be made public to inform the response to the exposure draft. Such thresholds cannot reliably be established without such evidence.

Inability to ensure that appropriate preventive action has been taken

ACOSS appreciates that the thresholds are not only set to prevent future risk, but are also intended to be considered in conjunction with other consideration of the forms of support provided to enable vulnerable tenants to avoid arrears, manage budgets and manage other complex needs that underlie both arrears and wider risk of homelessness. Similarly, it is expected that appropriate attempt to manage arrears and debts have already been made.

Despite this reported intention, nothing in the exposure draft provides for such consideration. More important, it will be impossible practically to verify that such actions have been taken appropriately, or that support is being provided.

It is particularly important that mere policy and procedure is not taken as a proxy for the specific engagement with specific tenants subject to a request for deduction.

April, 2013

Such assurances are, on the face of it, beyond the scope of the Department. But if some tens of thousands of tenants are potentially caught, then the practical task of is also far too great.

This consideration is particularly important in the light of the existence of state tribunals and courts that are able to make such determinations appropriately.

Recommendations:

1. That the Bill not be introduced in the Winter 2013 Parliamentary sitting period; and that a full assessment of its possible impact, the number of tenants that may be caught by its provisions, and mechanisms to determine whether appropriate supports have been put in place be undertaken.
2. That data on public housing evictions, the characteristics of tenant households evicted, and outcomes of such evictions be made public.