

Redfern Legal Centre



The Committee Manager
Social Policy Committee
Parliament House
Macquarie St
Sydney NSW 2000

5 October 2011

Attention: The Committee Manager of the Social Policy Committee

Please find attached our policy submission to the NSW Parliament's Inquiry into International Student Accommodation in New South Wales.

We would welcome the opportunity to appear before the Social Policy Committee to discuss this issue further.

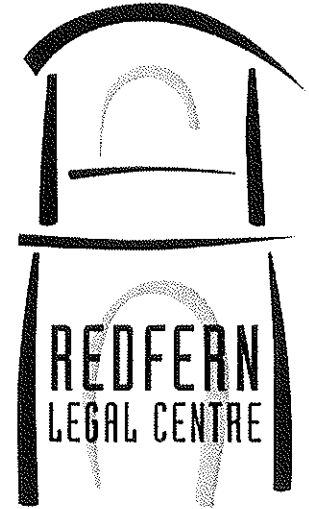
Yours faithfully,

Redfern Legal Centre

A handwritten signature in blue ink, appearing to be 'JS', is placed below the name of the sender.

Joanna Shulman
Chief Executive Officer

Redfern Legal Centre



*SUBMISSION TO THE NSW PARLIAMENT'S LEGISLATIVE ASSEMBLY
SOCIAL POLICY COMMITTEE*

INQUIRY INTO INTERNATIONAL STUDENT ACCOMODATION IN NSW

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6 October 2011

1. Background: Redfern Legal Centre and International Students

Established in 1977, Redfern Legal Centre (“RLC”) is an independent, non-profit, community-based legal organisation. We provide free legal information and legal advice to people in the Botany, Leichhardt and Sydney local government areas who cannot afford a private solicitor and do not qualify for legal aid. RLC has a particular focus on human rights and social justice.

RLC has a long history of providing advice to tenants, students (both local and international), people living in share housing and residents of boarding houses. We have assisted, advised and advocated on behalf of tenants, boarders and lodges since 1977. In 1988, we established the Eastern Area Tenants’ Advice and Advocacy Service. Since 1995, we have been funded to provide the Inner Sydney Tenants’ Advice and Advocacy Service, which is funded by Fair Trading NSW. We provide telephone advice, appointments, education and advocacy to the Consumer, Trader and Tenancy Tribunal to public and private tenants residing in our catchment area.

In our extensive experience, we have identified that international students are vulnerable in their housing as unscrupulous landlords and head-tenants specifically target them. Additionally, international students do not have the same support networks that other students may have available to them. These reasons have contributed towards the decision of RLC to establish a state-wide International Students’ Clinic.

The international student advice clinic commenced on 5 October 2011 and will operate every Wednesday night by appointment.

2. Our View in Summary

RLC recommends the introduction of laws to cover people that fall outside of the *Residential Tenancy Act 2010* (NSW) (“the Act”). While benefiting many residents of NSW such laws would also be of great advantage to international students and would have a significant impact on the housing sector they usually fall within.

This submission will address Terms of Reference 3 and 4 of the discussion paper.

3. Term of Reference (3): The appropriateness of existing standards for affordable student and other accommodation used by students.

At RLC, we are contacted by international students living in appalling conditions, almost on a daily basis. International students often face arbitrary and immediate rent increases or evictions. Very often international students are not protected by tenancy legislation due to exemptions in the *Residential Tenancies Act 2010* (NSW).

These exemptions are, in brief:

1. Student accommodation - Clause 20, *Residential Tenancies Regulation 2010* (NSW). Premises are exempt from the *Act* if they are within, owned by, or contracted to provide accommodation for an educational institution.
2. Boarders and lodgers – Section 8(1)(b), *Residential Tenancies Act 2010* (NSW). The *Act* does not apply to an agreement under which a person boards or lodges with another person
3. Occupants in shared households – Section 10, *Residential Tenancies Act 2010* (NSW). In a shared household where one tenant has a written tenancy agreement with the landlord, anyone not named on that agreement is not covered by the *Act*, unless they have a written residential tenancy agreement with the tenant they live with.

New South Wales, unlike most other States, does not have specific legislation to cover residents that fall outside of the *Act*. Individuals that fall outside of the *Act* must resort to a complex web of consumer and common law, which is often inappropriate to housing issues such as immediate evictions.

For a more detailed report on remedies available to boarders and lodgers see the *Legal Information Kit for Boarders and Lodgers* at <http://www.rlc.org.au/publications.html>. Our position paper on this issue is also attached.

Case Studies:

In one example seen by our service, a young female student was evicted from a CBD unit at 11pm on a Sunday night for not being able to pay an on-the-spot rent increase. Having no money she was forced to walk all night to a friends place in the suburbs, arriving at 6am the next day. As she was not covered by the *Act* we could not assist her to move back into the property or to apply to the Consumer, Trader & Tenancy Tribunal for compensation for the arbitrary eviction. While we were able to negotiate to have some bond returned, if the head-tenants had refused then our client would have had to apply to the NSW Local Court to have this returned. The cost and complexity involved in this would have meant she would not have pursued it further.

In another example, a student was told she would be sharing a room with one female. She returned from work that evening to move in and found out she had paid to reside in a basement with six males. She felt intimidated and unable to dispute this situation. She instead decided to leave, but was unable to get her bond or rent back. Not having any tenancy law or the jurisdiction of the Consumer, Trader & Tenancy Tribunal meant she was unable to get her bond back.

In another example, a resident was told another person was moving in and because there were no beds left she would have to share her bed.

As many landlords and head-tenants are aware that certain housing situations fall outside of the *Act* they target vulnerable people to move in and pay bond and rent in

advance. For the student to leave and be unable to get their bond back is a strong incentive for landlords to evade the Act.

4. Term of Reference (4): Appropriate or minimum standards for student accommodation, and the adequacy of current legislation in ensuring that such standards are achieved.

Introduction of housing laws to cover people that fall outside of the *Act*, while benefiting many residents of NSW, would be of advantage to international students.

While there are different legislative frameworks in different States and Territories, the model in the ACT is preferred as it has wide coverage, meaning that it covers everyone who falls outside of the *Act*. The ACT model of Occupancy Agreements is contained within Part 5A of the *Residential Tenancies Act 1997* (ACT).

Unfortunately, Regulations have not been implemented in the ACT model, which leaves it without minimum standards for notice periods for evictions. RLC recommends that NSW implement the ACT model with some changes to strengthen notice provisions within the model.

Any model needs to include provisions to ensure some security of tenure, even if it does not provide the same security as tenants. The provisions should cover minimum notice periods for evictions and rent increases (as rent increases can be used as a way around eviction notice periods). The model also should address general rights around:

- Repairs;
- Peace, privacy and quiet enjoyment of the premises;
- Reasonable notice periods for access to the premises by the landlord;
- Maximum amounts of bonds that can be charged and compulsory lodging of bonds with Renting Services (NSW Fair Trading);
- Set procedures around storage and disposal of uncollected goods;
- Dispute resolution through the Tenancy Division of the Consumer, Trader & Tenancy Tribunal.

5. Conclusion

Introducing legislation for occupants who fall outside of the *Act* would greatly benefit international students. Not only would it assist occupants to enforce their rights, such as to have notice periods before evictions or to get repairs done, it would reduce the incentive for landlords or head-tenants to create housing situations which evade the *Act*.