

Inquiry into the worsening rental crisis in Australia

Senate Community Affairs References Committee

4 August 2023

Acknowledgement

We acknowledge the Traditional Owners of Country and pay respect to Elders past and present.

We acknowledge the voices and experiences of victim-survivors of domestic, family, and sexual violence who are clients of Women's Legal Services and have informed our advocacy.

About Women's Legal Services Australia (WLSA)

WLSA is the national peak body for 13 specialist Women's Legal Services in each state and territory across Australia, including two First Nations Women's Legal Services. WLSA provides a national voice for Women's Legal Services and their clients to advocate for reforms to laws and policies to achieve justice, safety, and equality for women, particularly victim-survivors of gender-based violence and abuse.

Our advocacy work is informed by the expertise of hundreds of staff at Women's Legal Services and the experiences of thousands of clients across Australia.

About Women's Legal Services

Women's Legal Services provide high quality free legal services for women, including legal representation, support services, community legal education, and advocacy for policy and law reform. Some Women's Legal Services have operated for more than 40 years.

There are 13 Women's Legal Services across Australia, including:

- Women's Legal Service Victoria
- Women's Legal Service Tasmania
- Women's Legal Service NSW
- Women's Legal Service WA
- Women's Legal Service SA
- Women's Legal Service Queensland
- North Queensland Women's Legal Service
- First Nations Women's Legal Service Queensland
- Women's Legal Centre ACT
- Wirringa Baiya Aboriginal Women's Legal Centre (NSW)
- Top End Women's Legal Service
- Central Australian Women's Legal Service
- Katherine Women's Information and Legal Service

Women's Legal Services have expertise in family law, family violence intervention orders, child protection, and victims of crime compensation. Some Women's Legal Services also assist with migration law, employment law and discrimination law, criminal law, and other areas of civil law.

Women's Legal Services have specialist expertise in assisting victim-survivors of gender-based violence and abuse. Women's Legal Services provide holistic and trauma-informed assistance, including access to social workers, financial counsellors, and trauma counsellors to enhance women's safety.

Contact us

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Introduction

1. Women's Legal Services Australia (WLSA) thanks the Senate Standing Committees on Community Affairs for the opportunity to provide a submission on the worsening rental crisis in Australia. Our submission focuses on the impact of the rental crisis, and the lack of affordable, safe, and secure housing on women and children, particularly victim-survivors of gendered violence.
2. Our submission is informed by the experiences of staff at Women's Legal Services supporting women to access housing, including lawyers, social workers, and financial counsellors, as well as the experiences of our clients, particularly the barriers they face in accessing affordable housing, including safe and secure tenancies, where they have experienced, or are experiencing, gendered violence.

Recommendations

3. We make the following recommendations:
 - Increase the use of legislative provisions to enable victim-survivors to remain in the home with the perpetrator removed, including training and guidance for judicial officers to ensure that they are applied consistently by the courts, and the lack of affordable housing is taken into consideration.
 - Additional funding for Women's Legal Services to ensure that women are aware of legislative protections to enable victim-survivors to remain in the home and are supported to access legal protection and financial entitlement in family law and family violence matters.
 - Increase funding for 'Safe at Home' type programs to enable women to remain safely in the home with the perpetrator removed and increase flexible support and financial assistance packages for victim-survivors of domestic and family violence.
 - Urgently build 25,000 social homes each year for 20 years to tackle the social housing shortfall.
 - Expand eligibility criteria in all jurisdictions to enable women and children experiencing domestic or family violence to access social housing, including women on temporary visas experiencing violence and women who are homeowners.
 - Additional funding for Women's Legal Services to provide women with intersecting legal and housing needs with access to social workers and financial counselling to prevent homelessness associated with domestic and family violence and poverty.
 - Increase access to rental properties through financial assistance, sub-leasing arrangements, rental subsidies, bond loans, or rental grants.

The impact of the rental crisis on victim-survivors of gendered violence

4. It is well established that domestic and family violence is the leading cause of homelessness for women and children. Housing is critical for victim-survivors of violence to escape and recover. While ideally victim-survivors should be supported and able to remain in their homes with the perpetrator removed, the reality is that many survivors need to leave their home to find safety. Unfortunately, many women simply do not have the money to leave a violent relationship. A report by Anne Summers AO demonstrates that women across Australia are being forced to choose between violence or poverty.¹
5. Women are overwhelmingly the victim-survivors of domestic and family violence. In Australia, one in four women experienced family violence by an intimate partner or family member (27%), compared to one in 8 men (12%).² Rates of violence are even higher for certain groups, such as

¹ Summers, A. (2022). The Choice: Violence or Poverty. University of Technology Sydney. <https://doi.org/10.26195/3s1r-4977>

² Australian Bureau of Statistics 2021-22, Personal Safety, Australia, ABS, viewed 17 July 2023, <<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>>

Aboriginal and Torres Strait Islander women.³ A woman is also more likely to experience violence at specific life stages, such as while pregnant or while separating from a relationship.⁴ The increased risk associated with relationship breakdown is particularly relevant to our clients who are seeking assistance with family law matters and child protection matters.

6. The rental crisis in Australia means that women and children who are victim-survivors of violence are being forced to choose between violence and homelessness. The lack of affordable housing, including private rentals and social housing, is a major barrier to women leaving abusive or violent relationships. The significant financial, emotional, and social barriers, as well as safety risks, parenting considerations, or visa considerations, force many women to remain in unsafe relationships. Women continue to experience violence and abuse, often along with their children, to avoid homelessness.
7. A large proportion of clients of Women's Legal Services are women living 'separated under the one roof', where they live in the same home as their former partner or spouse after separation. Women are choosing this option for economic reasons due to a lack of affordable housing alternatives. Many women we assist who are 'separated under one roof' are in very untenable and unsafe environments, often with children and are often experiencing ongoing domestic and family violence.
8. Women on temporary visas who are experiencing violence face additional barriers to accessing affordable housing. Many of the clients we assist who are on temporary visas are not named on the lease for a rental property, face difficulties getting a tenancy on their own due to having no rental history, being on a temporary visa, and having limited support networks. Many women on temporary visa are unable to work because they are ineligible for childcare subsidies, and the lack of income is often a barrier to applying for housing.
9. In some jurisdictions, women on temporary visas are 'eligible to apply' for some social housing, however most women on temporary visas will not be offered social housing unless they become permanent residents. This is despite a recent commitment from the Australian Government to boost financial assistance available to temporary visa holders experiencing family and domestic violence to the same level received by Australian citizens under the Escaping Violence Payment trial.⁵ Many women on temporary visas that we assist have spent protracted periods in women's refuges and other crisis accommodation due to lack of alternative housing options.

Enabling victim-survivors of gendered violence to remain in the rental property

10. The states and territories have family violence legislation and tenancy legislation that includes protections for victim-survivors of domestic and family violence in relation to housing, including provisions to enable victims of domestic and family violence to remain in the home with the perpetrator removed. These provisions can apply to rental properties, or properties that are owned, and can enable for lease agreements and rental agreements to be legally ended or altered. However, there are barriers in accessing these provisions. While a perpetrator can be excluded from the home, this is often not a realistic or practical option if the victim-survivor cannot afford the rent payments on her own. In the experiences of Women's Legal Services, the application of these provisions by the courts could be strengthened, including training and guidance to ensure that they are applied consistently by the courts, and to ensure that the lack of affordable housing is appropriately considered by the courts.
11. The *Family Law Act 1975* (Cth) also contains provisions to enable the court to make orders or grant injunctions in relation to the sole use or occupation of the marital home. Under section 114, the court may make an order or grant an injunction in relation to restraining a person from entering or remaining in the home or relating to the use or occupancy of the home. This may include in relation

³ Australian Institute of Health and Welfare (AIHW), Family, domestic and sexual violence in Australia, 2018, catalogue number FDV 2, AIHW, Australian Government, 2018, doi:10.25816/5ebcc144fa7e6.

⁴ RL Burch and G Gallup, 'Pregnancy as a stimulus for domestic violence', *Journal of Family Violence*, 2004, 19(4):243–7, doi:10.1023/B:JOFV.0000032634.40840.48.

⁵ The Hon. Amanda Rishworth MP, Media Release, 'Increasing financial support for visa holders experiencing violence', 3 July 2023, < <https://ministers.dss.gov.au/media-releases/11626>>

to a rental property. The court has discretion to consider whether to make such an order or grant such an injunction, which means that there can be a lack of consistency in how these provisions are applied. Additionally, court delays and safety concerns can cause additional barriers to accessing these provisions, and many women are ineligible for these provisions because they are not entitled to the property.

12. In the experience of Women's Legal Services, many women are unaware of their rights and legislative protections that exist for victim-survivors of domestic and family violence in relation to housing, including in relation to rental properties and tenancies.
13. There are a range of programs in states and territories across Australia intended to provide coordinated support and practical assistance to victim-survivors of violence and abuse to enable them to remain safely in the home, with the perpetrator removed. For example, the Staying Home Leaving Violence (SHLV) program in New South Wales⁶ and the Safe at Home program in Victoria, have supported victims to safely remain, or return to, their homes. The Australian Government also funds state and territory governments, and select providers, to deliver services to help women and children to remain safe in their home as a key initiative under the National Plan to End Violence against Women and Children 2022-2032.⁷ These initiatives are linked to the legislative protections referred to above, and we support these initiatives but note that they are time limited, and with the rising cost of rent often the problem is just deferred.
14. In response to recommendation 13 of the Victorian Royal Commission into Family Violence, Safe at Home-type programs in Victoria have been expanded to provide specialist family violence case management and family violence Flexible Support Packages. Consistent with the approach taken in Victoria, we recommend that all programs across Australia incorporate flexible financial assistance, including rental subsidies to assist women who are victim-survivors of gendered violence to meet the cost of remaining in a rental property.
15. Alongside legislation and access to support services and financial support, women who are victim-survivors of gendered violence should also have access to legal representation to ensure that they receive the protections they need to remain safety in the home. Any legislative protections are more likely to achieve their intended outcomes if they are accompanied by access to legal assistance. We recommend additional funding for Women's Legal Services to ensure that women who are victim-survivors are aware of these legislative protections and can successfully advocate to be allowed to remain safely in the home with the perpetrator removed.
16. We also note that despite additional legislative protections, supports and financial assistance being available to enable women to remain in the home, the lack of access to affordable housing, including rental properties, remains a key barrier to women and children leaving violent or abusive relationships. Many women experiencing domestic or family violence are financially dependent on their partner or rely on dual incomes for housing and daily living expenses. Even with additional financial assistance, remaining in the private rental or mortgaged family home may not be sustainable as women simply cannot afford the payments, or may be unsafe due to the perpetrators' knowledge of the location and the property itself.
17. There are also provisions in tenancy laws that have made it easier for victim-survivors of domestic and family violence to end their tenancies without penalty in order to escape from violence, to change locks, to not be held liable for damages or unpaid result as a result of domestic and family violence, or to be removed from rental registration lists, however the legislation can only address part of the problem – it is of limited benefit if there is nowhere for the victim-survivor to go because she cannot afford a new rental property.

⁶ NSW Government, Staying Home Leaving Violence, accessed on 17 July 2023 <https://www.facs.nsw.gov.au/domestic-violence-1/services-and-support0/programs/staying-home-leaving-violence?SQ_VARIATION_568329=0>

⁷ Department of Social Services, Keeping Women Safe in their homes, accessed on 17 July <<https://www.dss.gov.au/women-programs-services-reducing-violence/keeping-women-safe-in-their-homes>>

Increasing access to affordable housing for victim-survivors of gendered-violence

18. All relationship breakdowns, including relationships involving domestic and family violence, will increase the demand for affordable housing options for single parent families. The lack of affordable rentals puts pressure on other types of housing, including social housing and crisis accommodation.
19. Women's Legal Services regularly engage with staff working in crisis accommodation and see the impact on our clients of the chronic underfunding of crisis accommodation and the extended waiting periods for medium to long-term housing options, including rentals. Women are staying in refuges longer due to the lack of affordable housing. Refuges across Australia continue to be at capacity and often have to rely on motels or hotels to house victim-survivors in urgent need of accommodation – the compounding impact of this is arguably more expensive than the cost of increasing social housing supply.
20. When assisting clients, Women's Legal Services are often focused on the immediate safety and support needs of women and children. However, we are aware that our clients also face an uncertain future because the exit points into affordable, safe, long-term housing are limited, there are extended waiting periods, and there is no guarantee of future housing. The wait time for appropriate housing further prolongs the period of social and educational disruption for women and children, which increases the likelihood of their return to violent or abusive relationships. Access to affordable rental properties and social housing would reduce the pressure on other parts of the housing system.
21. The lack of social housing means that there is nowhere for people, including women who are victim-survivors of gendered violence and children, to live if they are forced out of the private rental market. An Equity Economics report commissioned by the Everybody's Home campaign found that there is an immediate need for an additional 16,810 social housing units to provide women somewhere to go when their only option is to leave their homes due to domestic and family violence.⁸
22. The lack of investment in social housing by successive governments has led to skyrocketing prices and pushed more women, including victim-survivors of gendered violence, into precarious and insecure living arrangements. Governments must recognise that access to housing is a human right and must take responsibility for ensuring that all women have access to affordable, safe, and secure housing that meets their specific needs.
23. We note that there are some examples of state and territory governments increasing financial assistance and access to rental properties through sub-leasing arrangements, rental subsidies, bond loans, or rental grants, and we are supportive of these measures. For example, the Private Rental Assistance Program (PRAP) in Victoria has provided financial and practical assistance to assist people to establish and maintain private rental tenancies.
24. The Queensland Department of Housing has the Helping Hand Headlease program whereby the Department leases a private rental property through a real estate agent and subleases it to eligible tenants, including victim-survivors of domestic violence.⁹ However, the eligibility for this type of assistance should be expanded, and delays in processing applications should be reduced. Women's Legal Service Queensland has had clients who are eligible for the Helping Hand Headlease program still waiting for support after several years.

⁸ Equity Economics, 'Nowhere to go: The benefits of providing long-term social housing to women that have experiencing domestic and family violence', July 2021, <<https://www.equityeconomics.com.au/report-archive/nowhere-to-go-the-benefits-of-providing-long-term-social-housing-to-women-that-have-experienced-domestic-and-family-violence>>

⁹ Queensland Government, Helping Hand Headlease, access on 17 July 2023 <<https://www.qld.gov.au/housing/renting/rent-assistance/headlease>>