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Submission to the Inquiry into the Social Security Legislation Amendment (Public Housing Tenants' Support) Bill 2013

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 149 countries. In Australia, we operate in every state and territory, with more than 50,000 members, volunteers, and employees. Our people are deeply committed to social assistance and social justice, and we run a variety of programs around Australia which assist over 2 million people a year. Our work provides help for those who are marginalised by structures of exclusion and injustice, and our programs target (among other groups) people who are homeless and insecurely housed, migrants and refugees, people living with mental illness, and people experiencing poverty.

On 9 April 2013, the Department of Families, Housing, Communities and Indigenous Affairs invited the Society to a meeting to discuss the Social Security Legislation Amendment (Public Housing Tenants' Support) Bill 2013, which introduces the Housing Payment Deduction Scheme. The Society met with the Department on 18 April 2013, and provided a written submission on 23 April. Changes were made to the exposure draft, which was then introduced to Parliament. The Bill was then referred to the Community Affairs Legislation Committee.

1. Introduction

The Society believes that every Australian has the right to "a place to live". This right is enshrined in Article 25 of the *Universal Declaration of Human Rights*, and Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*. The latter recognises "the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". The Australian government has a duty to its citizens to both increase the accessibility, and decrease the cost, of adequate housing to all Australians.

The Society is also actively engaged in the fulfilment of the right to housing for all Australians through our programs and advocacy. For example, all around Australia the St Vincent de Paul Society runs free services for people experiencing housing stress, particularly those sleeping rough; we provide accommodation for families experiencing housing deprivation; we manage long-term housing for people living with chronic mental illness; and we also provide crisis accommodation services.

2. Background: A Balance of Rights

The rights of individuals to housing are compromised when people are evicted. The purpose of the Bill is to reduce homelessness, by reducing the chance that people will be evicted due to non-payment of rent. It seeks to achieve this while balancing the right of the housing authority to receive rent payments: deductions can be made from divertible welfare payments to ensure that rent it paid.

However, there is another right at stake under the Bill: the right of public housing tenants to live free from arbitrary interference and discrimination by the state. Autonomy and liberty are core elements of participation in a liberal democracy. We believe that reducing people's autonomy, by restricting how they spend their income, will only decrease self-determination and resilience, and increase social exclusion. Compulsory deductions are vastly different to voluntary repayment schemes (eg the Rent Deduction Scheme, Centrepay), which support individual decision-making and empowerment.

The Society has vehemently opposed all forms of compulsory income management as being overly intrusive, and as continuing to lack an adequate evidence base to support the purported outcomes.

3. The Scheme

The Bill in its current form applies the compulsory payment scheme to two groups:

1) People with current rent owing: specifically, anyone who has had $100 owing for 4 weeks, or anyone who has $400 owing for any period of time,[1] and from whom the lessor has taken 'reasonable action' to recover that amount;[2] and
2) Anyone who is just coming off a divertible welfare payment for having current rent owing. These people are now able to have a new 12-month divertible welfare payment order made against them.[3] This seems to replace the 'at risk' group from previous drafts.

4. Our View

Proposed Schedule 6, s 5(1)(a): The 'rent owing' group

The Society agrees that when people have rent owing they are at increased risk of being evicted. However, the preliminary criterion for a request, to have only $100 owing for 4 weeks, or $400 owing for any length of time, is too wide. This is not a large amount of money, and could be all too easy to overlook if the tenant is in a time of crisis, or doesn't have the skills to manage repayments. A single parent, working 2 jobs, with a severely disabled or ill child may have other priorities which lead him to underpay his rent for a period of 4 weeks. Someone living with mental illness may experience an episode that means she does not manage to pay a higher rent on one occasion. And yet, if 'reasonable measures' have been taken to recoup the money, both of these already marginalised people will have their income taken away, when in fact what is needed is a more responsive social security system, that nurtures and supports those in need instead of punishing them.

Proposed Schedule 6, clause 7: The 'previously under an order' group

We stated in our last submission that it may be desirable to prevent "churn" – where the same tenant cycles through order after order against them, constantly risking homelessness. We believe that this could be achieved by creating a divertible payment for people who have, in the last 12 months, been put onto the scheme three or more times.

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[1] This is assuming that the Social Security (Public Housing Tenants' Support) Minimum Amount Specification (No. 1) 2013 s 4 remains unchanged from the original draft.
[2] Clause 6(3). References in footnotes refer to Schedule 1 of the Bill – the *Social Security Administration Act 1999*, but the same comments do apply to the parallel scheme in Schedule 2 – *A New Tax System (Family Assistance) (Administration) Act 1999.*
[3] Clause 7, Clause 10(1)(e).

However, the currently proposed system only appears to require a person to have been placed on such payment scheme *once*. We believe that clause 7 should be limited to tenants who have been on multiple orders within the last 12 months.

Targeting homelessness

We are pleased that "reasonable action" has now been defined by subclause 6(4). The requirement for the public housing authority to undertake certain steps before applying for a compulsory deduction somewhat reduces the arbitrariness of the previous draft.

However, in our view, the mechanisms the Bill sets up to recover money and issue divertible welfare orders are still somewhat at odds with its stated object – "to reduce the risk of persons who receive certain welfare payments and lease public housing becoming homeless because they are evicted from or abandon that housing for failure to make payments required by their leases".

Specifically, it seems that the scheme in its current form will continue to apply to two main groups of people who are not at all at risk of becoming homeless:

1. **People who have already left, or intend to leave, the property in relation to which rent is owing, but who have alternative permanent accommodation and so are not at risk of homelessness.** For example, someone may have left public housing with a large debt, and moved into private rental accommodation, or may have moved in permanently with family (if they are teenagers, or if they are retirees, for example). Alternatively, the person may still be in public housing, but may have a feasible plan for permanent accommodation if they get evicted or if they leave (for example, private rental, moving in with a partner, etc). These people may be at absolutely no risk of homelessness, meaning that the legislation's purpose of preventing homelessness would not be furthered by applying the scheme to them. If it the scheme is intended to apply to them, then it is achieving different objects to those of the legislation: it may be punishing people, or it may be recouping the losses of the housing provider, but it is not reducing homelessness. If the scheme is really about decreasing homelessness, the scheme should not apply to these people.
2. **People who continue to reside in their original public housing property, with rent owing, but where the public housing authority has no real intention of evicting them and making them homeless.** Someone could have a small, but persistent, debt that they are consistently unable to pay. There may be a variety of issues, including lack of income, youth or old age, illiteracy, English as a second language, mental or physical disease or disability, crisis, family violence, cultural issues, poor understanding of the lease terms, inability to deal with banks, or social pressure to give away their benefit or pension to others. This person could, seemingly, under the current legislation, get an order made to divert their welfare payments, even though in reality the housing authority has no intention of making them homeless. Again, if the scheme applies to these people, the Bill may achieve the ends of punishing or controlling the person, or of securing the public housing authority's income, but it will not reduce homelessness as it intends. For these reasons, if the scheme's intention is to reduce homelessness, it clearly should not apply to these people.

The length of the deductions

Not paying rent can be a sign that people are experiencing a crisis, or are having problems negotiating the rent repayment systems. If someone is on the Housing Payment Deduction Scheme – particularly the 12-month variety – then the 'red flag' of not paying rent will disappear. In reality, when community services are thin on the ground, without this 'red flag' we believe that some of the community's most excluded will be overlooked.

We believe any deduction should be reviewed at least once a month, to ensure that it is still necessary, and to ensure that the tenant is coping with the repayments.

5. Conclusion: Linking the scheme to homelessness

We believe that the right to determine how one's income is to be spent free from discrimination can and should only be abrogated by the state as a last resort when that person's right to housing is at severe risk of being compromised. Compulsory deductions from income should not be able to be made merely if someone has failed to pay rent or utilities. Instead, the scheme should reflect the true intent of the White Paper and the National Affordable Housing Agreement: to reduce evictions from public housing into homelessness. In other words, the scheme should kick in as a 'last resort' only.

The Society believes that the scheme could be modified to reflect this by amending clause 7 to require someone to have come off three or more such orders in the previous 12 months, and – repeating our suggestion from our previous submission – making it a requirement of a divertible welfare payment that:

(i) the only reasonable action left open to the lessor is to evict the person, or to make a request under this section; and

(ii) if evicted, the person will most likely become homeless.

The Secretary would need to be satisfied that all of these conditions have been met to engage their jurisdiction to make a deduction under clause 6.

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The Society is pleased that Parliament is considering methods to protect people's right to housing by legislation attempting to limit evictions from public housing and into homelessness. However, we believe that any compulsory income management regime is, *prima facie*, a restriction of an individual's right to autonomy, which can lead to increased social exclusion.

We believe that the appropriate way to balance the rights is by using the compulsory payment scheme as a means of 'last resort' only, and legislatively enshrining the fact that deductions will not be made until there is a real risk of eviction and homelessness.

We look forward to continuing the discussion on this important issue.