



**Submission by the
Financial Rights Legal Centre**

NSW Fair Trading

Statutory Review of the Residential Tenancies Act
October 2015

January 2016

About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the Credit & Debt Hotline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took over 25,000 calls for advice or assistance during the 2014/2015 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

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Credit & Debt Hotline 1800 007 007
Insurance Law Service 1300 663 464
Monday – Friday 9.30am-4.30pm

Thank you for the opportunity to comment on the Statutory Review of the Residential Tenancies Act. The Financial Rights Legal Centre is making a short submission to support the Tenants Advice and Advocacy Program (TAAP) and also the Tenants Union of NSW.

In response to the Discussion Paper's Question 39 (Do the current information, advice and dispute resolution services operate effectively?) Financial Rights submits that the TAAP services not only function well but they are a critical and irreplaceable part of early dispute resolution services for tenants in NSW. Unlike NSW Fair Trading, the TAAP services and the Tenants Union provide tenants with independent and specialist advice and advocacy services.

While the Department of Fair Trading provides a very good service in relation to repairs, an independent, community based service which advocates for tenants, as opposed to a non-aligned mediator, is the best method of redressing the power imbalance that exists between many tenants and their landlords on a range of issues relating to tenancy law. Tenants can be from a variety of backgrounds, including those facing moderate to severe disadvantage, and are seeking to enforce basic rights in relation to access to shelter. Landlords on the other hand are enforcing property rights and should be expected to do so from their own resources.

In order to remain effective, these services need to be funded properly. Tenants' Advice and Advocacy Services provide one-on-one support and assistance to tenants in a way that no other services do. They do this in tenants' interests only, and they are the only services who assist tenants in hearings at the New South Wales Civil and Administrative Tribunal. The Tenants' Union of NSW also advocates for public interest tenancy issues in other venues including state and federal courts. Because of this, they are unique in their understanding of dispute resolution processes. This is important when giving information or advice to tenants about the various ways a dispute could be resolved. Well-advised tenants' make well-considered Tribunal applications, and are also aware of when matters can be better resolved outside of the Tribunal.

Recommendation

TAAP services and the Tenants' Union of NSW should be properly and sustainably funded beyond the current funding which ends in June 2016.

Case study: Independent Credit & Debt Services

As an example of why independent services are a critical part of early dispute resolution Financial Rights submits the following case study of Credit & Debt services in Victoria: For many years information, advice and referral in relation to credit and debt issues in Victoria was provided by an independent community legal centre, the Consumer Credit Legal Service ("CCLS") as it was then known. In 2004 the telephone advice and referral service (Creditline) provided by CCLS was defunded and the role taken over by the relevant Government Department, Consumer Affairs Victoria ("CAV"). CAV never provided advice, only information

and referral. Throughout the following years, senior staff at CAV contacted the Consumer Credit Legal Centre in NSW (as Financial Rights was then known) to enquire about the discrepancy between the large number of calls received by the Sydney service compared to the Victorian service, even taking into account the population difference. The only explanation we could proffer was that as a confidential, community based service clearly aligned with consumers (as opposed to their creditors), consumers in debt trusted us and felt comfortable making a call they would not necessarily want to make to a government department. Further, we are able to regularly make media comment and conduct consumer campaigns, that raise our profile with consumers and increase trust, in ways that would be unavailable to a government agency which must remain independent, supportive of commercial enterprise and relatively conservative in its communication style

In 2009 the Victorian government decided to move a large part of the function of the credit and debt telephone service back to the community sector and funded Money Help, a telephone based financial counselling service at Consumer Action Law Centre (which had been formed by a merger of CCLS and the Consumer Law Centre in 2006). That service has since grown in scope and joined the national network of services providing access to financial counselling, and credit and debt advice, under the same umbrella number. In its first year Money Help took 4,000 calls. Now, six years later Money Help has become embedded in the community service environment and is taking closer to 16,000 calls per year. Many of those callers receive the information and strategies they need to resolve or mitigate their financial problems without further assistance. The remainder are given the help they need or referred to other financial counselling and related services within the community.

Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact the Financial Rights Legal Centre on (02) 9212 4216.

Kind Regards,



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