PGT | Northern Territory Public Guardian and Trustee

Addressing antisocial behaviour in social housing

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Northern Territory Public Guardian and Trustee

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Introduction

The Office of the Public Guardian and Trustee works to safeguard and promote the personal, legal and financial interests of Territorians by providing adult guardianship, trust, estate and will services within a human rights framework.

For vulnerable Territorians, including people with disability and those who require support to make decisions, access to safe, stable and appropriate housing is essential to achieving positive outcomes. Appropriate housing also supports people's fundamental rights, such as the right to live with dignity, autonomy and safety as reflected in the *United Nations Convention on the Rights of Persons with Disabilities*.

The Northern Territory Government is proposing amendments to the *Residential Tenancies Act 1999* as part of its approach to addressing antisocial behaviour in social housing. These proposed reforms are directly relevant to the work of the Public Guardian and Trustee, as they have the potential to significantly affect the housing security and financial wellbeing of represented people, increase their vulnerability to homelessness and affect the practical operation of guardianship and financial management orders.

The proposed amendments will create a new administrative eviction power for social housing providers (including the Chief Executive Officer Housing and community housing providers), allowing them to terminate tenancies without first obtaining a Northern Territory Civil and Administrative Tribunal (NTCAT) order, although tenants will retain review rights. The proposed amendments will also establish an immediate termination pathway for 'serious breaches', including illegal use of the premises, serious property damage, threats, bullying, harassment or intimidation and serious harm to neighbours, staff, contractors or others connected to the property. These breaches will encompass conduct by the tenant or 'a person permitted on the premises by the tenant'.

The new legislation will also expand current termination grounds by including:

- rent arrears or repair debts outstanding for more than six months
- loss of eligibility for social housing
- serious disruption of neighbours' peace, comfort or privacy
- repeated tenancy breaches (three similar breaches within six months)
- refusal to enter, or repeated breaches of, an Acceptable Behaviour Agreement

Under the proposed reforms, social housing providers, the CEO Housing and NTCAT will be able to broadly consider 'circumstances', such as a tenant's previous antisocial behaviour history, in deciding whether to terminate a tenancy. The proposed reforms also introduce neighbourhood impact statements to support evidence of harm to neighbours, and strengthened occupancy restrictions, allowing action where unapproved occupants regularly reside in the property or contribute to overcrowding.

The Consultation Paper identifies the following proposed tenant protections:

- a 60-day notice period
- a right to seek NTCAT review
- the ability to remain in the property while review proceedings are underway
- 'consideration of disability, vulnerability, domestic and family violence, and support needs'

A 'three strikes' eviction policy appears to already have been announced and implemented from 19 October 2026. It is unclear from the Consultation Paper how the proposed legislative changes relate to the 'three strikes' policy or how the announcement that 'serious antisocial behaviour can trigger immediate termination action' is empowered by the current legislation.

The Public Guardian and Trustee recognises the importance of protecting tenants, neighbours and housing staff from harmful behaviour. However, measures to address antisocial behaviour must be proportionate and include appropriate safeguards to prevent avoidable homelessness, particularly where conduct is linked to disability, exploitation, discrimination or unmet support needs.

Public Guardian and Trustee context

The Public Guardian and Public Trustee act as decision-makers of last resort for adults with impaired decision-making capacity, where NTCAT is satisfied that there is no suitable person available to make decisions on the adult's behalf. People under these orders are collectively known as represented people.

Accommodation is a primary personal matter under the *Guardianship of Adults Act 2016*. Where authorised, a guardian may make decisions about where a represented person lives, and the services required to support their accommodation. In some circumstances, a guardian can enter into a tenancy on behalf of a represented person, including a social housing tenancy agreement. The Public Trustee may also make financial decisions connected with maintaining accommodation, including approving expenditure for rental bonds, rent arrears, repairs, utilities or other tenancy-related costs from a represented person's funds.

Importantly, the appointment of the Public Guardian and/or Public Trustee does not transfer responsibility for day-to-day support, case management, tenancy management or behavioural oversight. Staff exercise only those decision-making powers expressly conferred by legislation or an order of NTCAT, and their ability to influence a person's day-to-day conduct is inherently limited. The appointment of a guardian or financial manager must not be taken as evidence that a tenant has access to the practical supports needed to comply with tenancy obligations.

Based on available Public Guardian and Trustee data, approximately 14% of people for whom the Public Guardian and/or Public Trustee has been appointed are recorded as residing in public or community housing. Others live in supported accommodation arrangements, including Supported Independent Living (SIL) and Specialist Disability Accommodation (SDA), some of which may also involve social housing tenancies utilising Territory Housing stock. While the available data does not allow the full number of affected people to be determined, the proposed reforms have the potential to affect a significant number of people supported by the Public Guardian and Trustee.

Federal legislative amendments have recently authorised changes to the National Disability Insurance Scheme (NDIS) eligibility and funding rules. Modelling shows that these changes will decrease the quantum of funding available to some NDIS participants, which will affect their ability to secure or maintain their SIL accommodation. These participants will need to secure alternative accommodation and we expect to see increased demand for high priority social housing over the next 12-18 months.

The limited availability of social housing means that people with disability who are subject to guardianship orders can wait for suitable accommodation. During this time, they may be living in unsuitable or insecure housing, overcrowded social housing with family members, or experiencing homelessness. This can include being housed in resource-intensive healthcare settings, such as mental health and aged care hospital wards, day facilities, shelters, transitional and short-term accommodation and aged care. Losing an established tenancy may leave little or no prospect of securing alternative accommodation, with eviction effectively resulting in homelessness for people with complex needs and vulnerabilities.

Emergency and crisis accommodation may also be unsuitable or inaccessible for people with disability, particularly those with complex support needs. Even where accommodation is available, the physical environment, staffing arrangements or capacity to provide disability-related supports may limit a person's ability to access or safely remain in these services. Some people may be reluctant to use these options where the environment is unsuitable for their needs.

Additionally, approximately 76% of represented people involved with PGT identify as Aboriginal,

and as such, cultural considerations often impact their daily life and circumstances. Social housing located on or near a person's traditional Country and family is often an important protective factor in their wellbeing and support network. Aboriginal represented people may also experience additional, interrelated challenges that are not adequately addressed within the current system. These can include cultural and family obligations, family pressures, cultural sharing, mobility between communities, overcrowding and alcohol and other drug issues, which can combine to create significant housing challenges.

Disability, vulnerability and tenancy risk

From the perspective of the Public Guardian and Trustee, an important consideration is that tenant behaviour characterised as 'antisocial' may not always reflect deliberate, reckless or intentional wrongdoing. Many represented people live with intellectual disability, acquired brain injury, dementia, psychosocial disability or other conditions that may affect executive functioning, impulse control, social judgement and the ability to understand or regulate behaviour. It is also important to recognise that societal attitudes towards disability can influence how behaviour is perceived and tolerated. Conduct that may be regarded as a minor inconvenience or accepted as part of ordinary neighbourhood living when exhibited by a person without disability may be viewed more negatively when associated with a person with disability, particularly where there are concerns, assumptions or misconceptions about disability. As a result, some represented people may be more vulnerable to complaints, scrutiny or characterisation as engaging in 'antisocial' behaviour, even where the conduct is not objectively more serious than that of other tenants.

Additionally, disability, abuse and other vulnerabilities can affect a person's ability to understand consequences, effectively manage relationships or exclude people from their home. In some cases, the behaviour giving rise to complaints may be attributable wholly or partly to family members, carers, visitors or associates whom the tenant lacks the practical capacity to exclude or control. This is particularly concerning where the tenant is experiencing coercion, exploitation or abuse by the people whose conduct is placing their tenancy at risk.

Conduct that is perceived as antisocial may be symptomatic of unmet support needs, service gaps, inappropriate housing or inadequate support arrangements, rather than a conscious or malicious disregard of tenancy obligations. In the Public Guardian and Trustee's experience, sustainable tenancy outcomes are more likely to be achieved through appropriate supports and coordinated service responses than through punitive measures. This might include, for example, the inclusion of a Behaviour Support Practitioner in the person's support team, to provide proactive and consistent engagement to help someone meet their tenancy obligations. Importantly, Public Guardian and Trustee staff cannot supervise a tenant's conduct or ensure compliance with tenancy conditions, including physically preventing visitors from entering a property.

The descriptions of antisocial behaviour in the current *Housing Act 1982* and in the Consultation Paper illustrate the conduct and the effect of the conduct, but overlook the tenant's capacity, culpability, intent or any potential mitigating factors. The landlord is only required to establish that the conduct occurred for the statutory grounds to be met. This is concerning because it means the proposed amendments will disproportionately affect people with disability, whose behaviour can be affected by impairments to communication, social skills, judgement or emotional regulation. This may compound existing disadvantage and expose people with disability to adverse housing outcomes arising from behaviours over which they have limited control.

Uncertain safeguards

While the Consultation Paper acknowledges that disability, vulnerability and domestic or family violence may be relevant considerations under the new administrative eviction powers (i.e., outside of NTCAT), it remains unclear how decision-makers will be required to actively consider and weigh these circumstances, what evidentiary requirements will apply outside of domestic or family violence provisions, whether advocates, guardians or support providers will be engaged in the

process, and at what stage alternatives to eviction must be considered.

Without clear legislative safeguards, there is a risk that disability may be acknowledged but afforded limited practical significance in tenancy termination decisions. Tenants with impaired decision-making capacity may also have difficulty understanding termination notices, responding to allegations or exercising review rights within prescribed timeframes. Accessible communication, appropriate decision-making support, housing advocacy and opportunities to respond before termination decisions are made are therefore essential to ensuring procedural fairness.

Case study example

> A represented person with an acquired brain injury permitted some acquaintances to regularly visit their social housing property. Those visitors caused property damage and disturbances to neighbours. Although the tenant did not participate in the conduct and repeatedly expressed concern about the visitors, the person lacked the practical capacity and confidence to exclude them from the premises. The Public Guardian and Trustee was subsequently required to use the represented person's trust funds to meet the costs of repairing the property damage. Under the proposed amendments to the legislation, the tenant may also face termination of their tenancy despite being primarily a victim of exploitation rather than the cause of the conduct.

This case study illustrates a common scenario for represented people, many of whom have very limited financial resources and rely on a Disability Support Pension or other income support payments to meet everyday living expenses. Without the financial capacity to remedy damage, breach notices can be a significant drain on the capital of a person under a financial management order. This is particularly unreasonable when damage is caused by visitors or family members exploiting a tenant's disability or vulnerability.

The Consultation Paper describes the support from the Department of Housing, Local Government and Community Development that tenants will receive as the proposed changes are implemented; however, it provides broad statements of intent without establishing clear obligations, thresholds or legislative safeguards. It acknowledges disability, vulnerability, domestic violence and limited control over visitors, but does not explain how these factors will be assessed or what practical protection they will provide when eviction is being considered. As a result, support measures may be inconsistent in practice and vulnerable tenants remain at risk of losing their housing. This is particularly concerning where tenancy issues arise in the context of unmet health, disability, social or behavioural support needs. In many cases, behaviours that place a tenancy at risk may be symptomatic of broader service gaps rather than unwillingness to comply with tenancy obligations. Without mechanisms to ensure appropriate supports have been offered, coordinated and exhausted before eviction is pursued, there is a risk that tenancy enforcement becomes a response to systemic service failures rather than a measure of last resort.

Consequences for represented people

Many represented people rely on established housing arrangements to access disability services, healthcare, community supports and informal networks. Where a tenancy is terminated, there is a serious risk of homelessness, housing instability and disruption to these supports, potentially resulting in an increased need for crisis responses by other parts of the service system.

Eviction may result in reliance on already overstretched systems of crisis accommodation, more frequent hospital presentations or prolonged hospital stays, greater interaction with police and the justice system, disruption to disability, health and community support arrangements, and deterioration in health, wellbeing and functional capacity.

The proposed reforms will also increase demand for advocacy, representation and NTCAT review proceedings involving represented people. This will require greater coordination between the Public Guardian and Trustee, public and community housing providers, disability services, social workers, support coordinators and other stakeholders. At the same time, there will be increased expectations

for the Public Guardian and Trustee to intervene directly in tenancy issues, including behavioural concerns, visitor-related problems, property maintenance matters and rent arrears. However, the Public Guardian and Trustee is not responsible for day-to-day case management and does not have the statutory authority or practical capacity to supervise a person's conduct, control their associations or deliver intensive tenancy support. Responsibility for delivering tenancy support and behavioural interventions must remain with appropriately authorised and resourced service providers.

The risks associated with evicting vulnerable people from social housing are amplified by the limited availability of alternative short- and long-term housing options in the Northern Territory. Represented people often face significant barriers to securing suitable accommodation due to disability, accessibility requirements, reliance on support services, limited financial resources and difficulties accessing private markets. As a result, the consequences of eviction are likely to be more severe and longer lasting for represented people than for the broader population. In many cases, the loss of a social housing tenancy may place the individual's long-term housing stability, support arrangements and overall wellbeing at significant risk. It is important that the Northern Territory these barriers rather than excluding people who experience difficulties maintaining their tenancies.

Recommendations

The Public Guardian and Trustee supports approaches that prioritise tenancy sustainment wherever possible. In the context of represented people, termination of a tenancy for apparent antisocial behaviour by the tenant or another person may result in a cascade of crisis interventions such as emergency homelessness support, disability and health service responses, ongoing support for housing instability and increased reliance on other government-funded and services delivered by non-government organisations. Given the well-established relationship between homelessness and poorer health, disability, social and justice outcomes, eviction should be regarded as a measure of last resort, particularly where the conduct may be linked to disability, mental illness, trauma or unmet support needs.

A more coordinated and preventative approach would recognise that maintaining a tenancy is often dependent on the effective interaction of housing, disability, health and community service systems. Where tenancy concerns arise, early engagement and support-focused responses are more likely to achieve safe, sustainable outcomes. The Public Guardian and Trustee encourages the Northern Territory Government to invest in innovative and flexible approaches that combine stable housing with appropriate support services. These approaches should recognise the social determinants of health and wellbeing, the interdependence of service systems and the importance of addressing underlying causes of tenancy instability before eviction is contemplated. Such approaches are likely to improve tenancy stability, reduce homelessness and lessen reliance on crisis-driven government and non-government service responses.

Legislative safeguards

Given the proposed administrative eviction powers, the Public Guardian and Trustee considers that key tenant protections should be prescribed in legislation rather than relying solely on departmental policies or housing provider practices. In particular, the legislation should require:

- Early notification and engagement, including mandatory notification to any appointed guardian or financial manager where the relevant matter falls within their decision-making authority, before a notice of termination is issued.
- Procedural fairness protections, including accessible notices, a reasonable opportunity to respond to allegations, access to independent advocacy and accessible review mechanisms.
- A requirement to consider disability, decision-making capacity and vulnerability when determining whether termination is appropriate. This would be consistent with Recommendation 7.37 of the Royal Commission into Violence, Abuse, Neglect and

Exploitation of People with Disability, which the Northern Territory Government accepted in principle. The recommendation calls for stronger tenancy protections for people with disability, including consideration of disability in tenancy termination decisions.

- Additional safeguards where conduct is substantially attributable to disability, cognitive impairment, exploitation by others, or inadequate support arrangements.
- A requirement that termination be treated as a measure of last resort, following consideration of the person's circumstances, available supports, alternative interventions, the risk of homelessness and the availability of safe and suitable alternative accommodation.
- Collection and publication of data relating to tenancy terminations involving people with disability and represented people, to enable monitoring of impacts and inform future policy development.

Operational and system supports

In addition to legislative safeguards, effective implementation of the reforms will require access to appropriate tenancy sustainment supports, including early intervention, practical outreach support and case-management-style support for tenants experiencing vulnerability or complex needs.

The legislative framework and supporting operational arrangements should clearly establish responsibility for coordinating, delivering and funding these supports. While the Public Guardian and Trustee may have decision-making or advocacy functions in some housing-related matters, it cannot be assumed to have responsibility for coordinating or delivering tenancy support, behavioural interventions or case management services. Those functions should remain with appropriately authorised and resourced service providers.

This approach would better support the objective of sustaining tenancies wherever possible while recognising the complex needs and vulnerabilities of represented people.

The Public Guardian and Trustee encourages the Northern Territory Government to expand the range of social housing options available to people with disability and other complex support needs. Housing design should recognise that successful tenancy outcomes are influenced by factors such as social housing density, amenity, proximity to natural and community spaces, noise levels, cultural considerations and compatibility with neighbouring residents. Housing policy should therefore prioritise a diverse housing portfolio, avoiding undue concentration of vulnerable tenants in particular complexes or locations. Integrating social housing throughout the broader community, and providing access to housing types that respond to behavioural, sensory and support needs, may reduce conflict, improve wellbeing and promote long-term tenancy sustainment.

Conclusion

The Public Guardian and Trustee supports measures aimed at improving safety and positive tenancy behaviour in social housing. However, for people subject to guardianship and financial management orders, apparent antisocial behaviour may be linked to a person's disability, impaired decision-making capacity, housing suitability and effectiveness of support arrangements. Reforms should therefore encompass rigorous safeguards recognising that tenancy breakdown can be a result of unmet support needs rather than simply deliberate tenant or visitor ‘misconduct’.

Access to stable, appropriate and sustainable housing is fundamental to the wellbeing of represented people and supports the effective operation of guardianship and trustee functions in the Northern Territory. It is also critical to preventing homelessness, reducing demand on health, justice and community services, and promoting the rights, dignity and participation of vulnerable Territorians.

The Public Guardian and Trustee considers that appropriate housing is both a basic human right and a prerequisite to achieving government objectives of reducing crime, rebuilding the economy and restoring the Territory lifestyle. Efforts to address complex social issues through housing exclusion

risk entrenching disadvantage, increasing homelessness and creating additional pressures on already stretched health, justice and community service systems. Evicting traumatised and vulnerable tenants into homelessness does not remove these challenges; it transfers them elsewhere at greater social and economic cost.

A strong and inclusive Territory cannot be built by legislating pathways to homelessness or by further marginalising vulnerable people. Meaningful and lasting reform requires innovative approaches that prioritise tenancy stability, social cohesion and a well-resourced, coordinated network of support services. Rather than relying on exclusion, reforms should create conditions in which all Territorians can live safely, with dignity and stability.