



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: HRC/EEas: 1778707

22 November 2019

The Hon. Gladys Berejiklian
Premier of NSW
Parliament of NSW
GPO Box 5341
SYDNEY NSW 2000

Dear Premier,

Enhancing housing protections for international students in New South Wales

I am writing on behalf of the Law Society in relation to the barriers faced by international students in finding secure and affordable housing in NSW.

The Law Society is concerned about findings in the **enclosed** July 2019 report published by the University of NSW Human Rights Clinic, *No Place Like Home: Addressing Exploitation of International Students in Sydney's Housing Market* ("the UNSW report"). The UNSW report was informed by focus group discussions, expert interviews, and an analysis of Kingsford Legal Centre's tenancy advices for international students from October 2017 to April 2018. The UNSW report's findings highlight breaches of basic human rights to adequate housing and the emotional, physical and financial consequences suffered by international students due to often-unlawful conduct of landlords.

The Law Society encourages relevant agencies within the NSW Government to review the UNSW report's findings and respond to its recommendations for reform.

1. Barriers faced by international students

In 2018 there were over 548,000 international students in Australia.¹ 38% of international students are enrolled in institutions in NSW institutions, with over 35,000 students studying in Sydney.² The UNSW report stated that "international students confront numerous intersecting barriers to finding secure, safe and affordable housing in Sydney".³ While domestic students also face many of these difficulties, international students are often at heightened vulnerability due to having no local family or social support, and lacking familiarity with local residential accommodation practices.

¹ Natasha Robinson, 'Australia hosting unprecedented numbers of international students', ABC News (online, 18 April 2018) <<https://www.abc.net.au/news/2018-04-18/australia-hosting-unprecedented-numbers-international-students/9669030>>.

² 'International Students', City of Sydney (Web Page) <<https://www.cityofsydney.nsw.gov.au/community/community-support/internationalstudents>>.

³ UNSW Human Rights Clinic, *No Place Like Home: Addressing Exploitation of International Students in Sydney's Housing Market* (July 2019) ("UNSW report"), 9.

The UNSW report found that many international students in NSW “experience substantial financial strain” due to the cost of tuition and living, and visa conditions restricting employment. As a result of these factors, coupled with the limited availability of dedicated student accommodation and affordable rental property in Sydney, the majority of international students in Sydney live “in share houses, boarding houses, private rentals, homestays and other arrangements in the marginal rental sector”.⁴

2. Accommodation issues experienced by international students

The UNSW report identified a number of housing issues experienced by international students.

- 38% of the tenancy advices for international students provided by Kingsford Legal Centre contained instances of scams, including deceptive or exploitative conduct by landlords. Examples of such conduct included: excessive charges for rent, utilities or repairs; and payment of deposits for non-existent or falsely-described rental property. International students often make housing arrangements before arriving in Australia, making them particularly vulnerable to deceptive practices.
- Difficulties recovering a rental bond were reported by 25% of international students included in the study. The UNSW report also noted instances of landlords requiring bonds of more than four weeks’ rent, in contravention of the *Residential Tenancies Act 2010* (NSW) and/or failure to lodge the bond with the Rental Bond Board.
- Overcrowding is another common housing issue for international students in Sydney. The UNSW report cited 2013 figures from the Australian Bureau of Statistics which found that around 20% of international students were living in overcrowded accommodation, compared to 6% of domestic students.⁵ The City of Sydney has similarly reported that international students and new migrants have “significantly higher rates of overcrowding than the general population”.⁶
- Fire safety is another issue in accommodation used by international students, and is often linked to overcrowding. Interviews that informed the UNSW report identified a lax approach to fire safety in boarding house accommodation used by international students. The Fire and Rescue NSW superintendent has stated that overcrowding, blocked exits and unauthorised modifications compromise the effectiveness of sprinklers and smoke alarms.⁷ Such unsafe accommodation arguably represents a breach of the *International Covenant on Economic, Social and Cultural Rights*, under which Australia has an obligation to ensure everyone in its jurisdiction has access to adequate housing.⁸
- The UNSW report identified instances of landlords unfairly evicting students with little or no notice or through using harassment tactics in contravention of NSW housing laws.⁹

The UNSW report highlighted factors which can prevent international students from securing adequate housing or leaving inadequate housing, and noted that this cohort often do not know where to go for legal assistance when housing problems arise. When international students do seek legal help, they can experience long wait times and/or only general advice

⁴ Ibid 37.

⁵ Ibid 32.

⁶ City of Sydney Council, Submission No 66 to the NSW Legislative Assembly Social Policy Committee, Parliament of NSW, *Inquiry into International Student Accommodation in New South Wales* (31 October 2011) 8.

⁷ UNSW report, 33.

⁸ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, A/RES/2200A(XXI) (entered into force 3 January 1976) art 11.

⁹ Ibid 8.

about their rights and options, as the legal services that advise students on tenancy issues do not have capacity to represent many students in claims against their landlords.¹⁰

In addition, international students frequently lack necessary documentation for an NSW Civil and Administrative Tribunal (“NCAT”) application – including the landlord’s contact details, a written tenancy agreement and rent receipts – and there is limited access to NCAT for boarding house residents. Cultural and language differences can also contribute to international students’ lack of knowledge or misunderstanding of rights or standard housing practices in NSW.¹¹

3. Recommendations in the UNSW report

The UNSW report includes a set of recommendations to help address the issues faced by international students in finding secure and affordable housing in NSW.

While we encourage the Government to consider all the recommendations in the UNSW report, we would like to highlight the following.

4. The NSW government (including StudyNSW and Fair Trading NSW) should collaborate with education providers, tenants/legal assistance services, local councils and international student groups to develop and deliver targeted information that enables international students to identify adequate housing, avoid exploitative housing practices, and seek help for problems when they arise.
- 5a. The NSW government should establish a centrally-located International Student Hub which provides students with information, contacts, support, and a free confidential legal service for tenancy issues... This should be accessible in person, via phone and via online chat.
- 5b. The NSW and Commonwealth governments should increase availability of legal assistance to meet unmet legal needs of international students, including providing greater funding to existing tenancy/legal services for international students.
7. The NSW government should implement a code of practice for commercial student accommodation to establish a clear set of standards regarding quality and enforcement of tenants’ rights, and a related accreditation process. This has been done in other jurisdictions, e.g. United Kingdom Student Accommodation Code.
- 10a. Organisations with appropriate expertise, such as Tenants Advisory Services and community legal centres should be given standing and the power under the *Residential Tenancies Act 2010* (NSW) to run representative actions against repeat offenders in the NSW Civil and Administrative Tribunal, rather than the current highly resource-intensive model requiring individual actions for each international student affected by the same or similar conduct.
12. The *Residential Tenancies Act 2010* (NSW) and/or the *Residential Tenancies Regulations 2010* (NSW) should be amended to provide rights and remedies to the most vulnerable tenants in the marginal rental sector, including international students in share houses.
13. Reforms should be introduced to NSW Civil and Administrative Tribunal processes to increase accessibility for international students.

¹⁰ Ibid 10.

¹¹ Ibid 49.

Further details on each of these recommendations is at pp 56-61 of the UNSW report. With regard to recommendation 4, if it is helpful, the Law Society would be pleased to offer our assistance in developing targeted housing guidance for international students, and could engage the expertise of our Human Rights Committee in doing so.

We encourage relevant agencies within the NSW Government to review the UNSW report's findings and respond to its recommendations for reform.

Should your office have any questions regarding this letter please contact Andrew Small, Acting Principal Policy Lawyer, at Andrew.Small@lawsociety.com.au or on (02) 9926 0252.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Elizabeth Espinosa', written in black ink.

Elizabeth Espinosa
President

Enc.