



Encouraging consumer benefits in water for tenants:

Submission to NSW Office of Fair Trading - Residential tenancy law reform

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Introduction

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that identifies public interest issues and works co-operatively with other organisations to advocate for individuals and groups affected.

PIAC seeks to promote a just and democratic society by making strategic interventions on public interest issues in order to:

- expose unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate;
- promote the development of law—both statutory and common—that reflects the public interest; and
- develop community organisations to pursue the interests of the communities they represent.

Energy + Water Consumers' Advocacy Program

Established in 1998 by PIAC as the Utility Consumers' Advocacy Program (**UCAP**), the Energy + Water Consumers' Advocacy Program (**EWCAP**) is funded by the NSW Government, to develop policy and advocate in the interests of residential consumers, particularly low-income consumers, in the NSW energy and water industries. The project is based at PIAC and EWCAP staff receive policy direction from a community-based Reference Group.

PIAC appreciates the opportunity to comment on the NSW Office of Fair Trading report, *Residential Tenancy Law Reform, A New Direction* (**the Report**). In line with EWCAP's mandate, PIAC's response is limited to the issue of water usage.

Tenants' responsibility for water charges

Because of the need to reduce water usage on a community-wide basis, PIAC agrees with the Report's proposal to make all tenants of separately metered premises liable to pay for water usage. If the proposal for direct billing (see item 3 below) is not accepted, the following measures should be implemented to reduce the impact of the reforms:

1. Because some tenants not previously liable for water usage will now be required to outlay at least several hundred dollars extra per year, their landlords will receive a windfall. Such tenants should be protected from rent increases for a period of 12 months from the time when they become liable for water usage.
2. Tenants should not be liable for the access charge, since this is unrelated to their consumption.
3. Landlords or agents must pass on copies of water bills to tenants within three weeks of the due date for payment.
4. Tenants are entitled to receive any rebates for water supply interruptions.
5. Landlords must repair leaks in a timely manner.

Water efficiency

Repairs or renovations

The 2005 *Residential Tenancy Law Reform Options Paper* canvassed the possibility of landlords in NSW being required to install water-efficient appliances when carrying out repairs or renovations. PIAC supports this reform, which assists water conservation while helping tenants to reduce their water bills. It would be inequitable for consumers to pay for their usage while being denied access to mostly cheap and efficient ways to reduce their consumption.

PIAC is therefore concerned that the Report does not support this reform, instead recommending that landlords should be:

... *encouraged* to install water efficient appliances and fittings ... [particularly] when an appliance or fitting is to be replaced as part of maintenance or renovations to the property...
Report, recommendation 35, page 20

It is not good enough for landlords to argue that it would 'limit choice and may impose additional compliance costs': page 19. Sydney Water Corporation (**SWC**) has recently applied to the Independent Pricing and Regulatory Tribunal (**IPART**) for a one-third increase in water charges to residential consumers over four years, a substantial proportion of which is related to the need to make a profit while encouraging consumers to reduce their consumption. If consumers are being charged more and encouraged to use less, landlords should also play their part in improving water efficiency.

Water Efficiency Labelling and Standards Scheme – standard installations

An even better outcome for water conservation and for tenants would be for landlords to be required, at the start of every new lease, to install or maintain plumbing products, sanitary ware and whitegoods with ratings of at least four stars under the national Water Efficiency Labelling and Standards (**WELS**) Scheme. This outlay is an appropriate *quid pro quo* for the extra outlay on the part of tenants newly responsible for water charges. The cost would be tax deductible, and would eventually be recouped through higher property values.

Water efficiency schemes

At present only property owners can take advantage of water-efficiency schemes such as SWC's Waterfix. PIAC believes that such schemes should be more readily available to tenants, to help reduce their consumption and bills.

Recommendation 51 of the Report, which refers at page 31 to the right of tenants to make cosmetic improvements, could therefore be extended to Government-endorsed water efficiency schemes installed by SWC or accredited plumbers. As with other such improvements, the landlord's prior consent should not be unreasonably refused.

However, unlike cosmetic improvements, water efficiency improvements should be made at the landlord's expense, since tenants on short leases are unlikely to spend the money up-front in the expectation of a payback over an undetermined longer period. The (minimal) cost would be tax

deductible for landlords, and would make the property marginally more attractive to potential future tenants.

Direct billing

The 2005 *Options Paper* referred at page 15 to the system in Victoria and Western Australia, whereby 'water usage bills can be issued directly to a tenant by the supply authority, upon the request of the landlord'.

PIAC supports the introduction of direct billing for water usage in NSW, which would be consistent with the direct billing of tenants for energy usage. This system has advantages for landlords or property managers—who would no longer be legally responsible for payments, and would not need to chase up tenants for payment—as well as tenants—who would not have to go through a third party for their bills.

In addition, because they require production of an original bill, tenants in financial hardship cannot currently receive Payment Assistance Scheme (**PAS**) vouchers. Direct billing will make it easier for such tenants to receive PAS vouchers.

The only disadvantage is for water suppliers, who may have to deal with unpaid bills and possible resulting supply restrictions. They would also need to issue dual bills—one for access charges, the other for usage—on request. However, since water suppliers in other states have adjusted to this system without obvious detriment, PIAC sees no reason why suppliers in NSW should not also be able to successfully implement this reform.

This proposal is not supported, for reasons not made clear, in the review Report. Nevertheless, PIAC recommends the introduction of direct billing of tenants for water-usage charges. This should be at the request not only of landlords but also of tenants on 12 months' leases.