

# Human Rights | Housing and Homelessness

## Case study: Right to health services



Aunty Carol is an Aboriginal woman in her 50s who is experiencing homelessness. Aunty Carol has been living temporarily in a rural pub, up two flights of stairs with shared facilities. Aunty Carol is legally blind and she is on the waitlist for specialist eye surgery to reverse blindness and prevent the condition from becoming permanent.

Aunty Carol is due to undergo surgery in 10 days' time. She missed a previous booking due to her fear of the procedure and lack of any family or moral support. This is her last chance to have the surgery before her condition becomes irreversible.

Post-surgical care requires nurses to visit Aunty Carol four times a day for a month to administer eye drops and check on her progress. Nurses cannot provide this level of care at the pub, so it is vital that Aunty Carol obtains secure, accessible and affordable accommodation to support her access to health services while she is in recovery.

Aunty Carol's previous permanent address was a social housing property six hours away. Aunty Carol had felt unsafe in the property due to break-ins, so she abandoned it, leaving behind a small debt. Aunty Carol had subsequently travelled into town to live with a friend however that relationship has since broken down.

Aunty Carol contacted a housing service provider for help. It was clear to the staff that she required crisis accommodation, but its only available property was a high-set, three-bedroom detached dwelling. That property was unsuitable for Aunty Carol who needed an accessible, small, ground floor unit with no ongoing maintenance.

The service provider did have crisis units in its property portfolio however none were vacant. Their best available option was to transfer another existing tenant (Tara) to the three-bedroom dwelling and thereby make a crisis unit available to support Aunty Carol's recovery. Tara has indicated that she would be happy to be offered a property transfer. **Would this decision be compatible with human rights?**

*\* The names used in the scenario have been changed to protect the identity of those involved.*

This case study has been co-designed with Anglicare Central Queensland, highlighting examples of proper consideration in accordance with the *Human Rights Act 2019 (Qld)* (HRA).



### Purposeful Outcome

Be clear about the purpose of your service and clarify the outcome you are wanting to achieve in making this service decision.

Homelessness services are provided to assist people who are, or who are at risk of, homelessness. Services also support people to maintain their tenancy and develop the skills to manage their home independently; they move people out of homelessness and towards housing stability.

Aunty Carol needs a safe and accessible home to support her post-surgical care. This will enable her to access vital health services to prevent permanent vision loss.



## Identify Rights

Identify the human rights of all people involved in the situation and understand how they will be impacted by the decision.

Of the 23 rights protected in the *Human Rights Act 2019 (Qld)* (HRA) the following are engaged in the situation:

### Right to health services

Aunty Carol requires surgery to prevent ongoing harm and serious impairment. Without appropriate housing to support her post-operative care, the surgery cannot proceed and Aunty Carol will become permanently blind.

Aunty Carol has had a difficult life. From childhood through to her recent move, her medical condition and her living situation have all contributed to extreme social isolation which is also impacting her mental health.

### Recognition and equality

Aunty Carol has the right to receive government services regardless of her existing social housing debt and desertion from her previous property. These factors may inform how services are provided to her but they should not prevent her from accessing services.

### Protection from cruel, inhuman and degrading treatment

Aunty Carol is essentially blind and trying to live in an unfamiliar environment, struggling to access her room up two flights of stairs and using communal facilities. This living situation is cruel, inhuman and degrading, as many days she is unable to leave the top floor of the pub.

### Right to liberty and security of person

Aunty Carol's health conditions accentuates her vulnerability, and her security is at a heightened risk when using communal facilities. Aunty Carol has difficulty traversing the stairs. Being unable to easily access her room also impacts on her security of person (her safety).

### Privacy and reputation

Living in a pub with shared facilities impacts Aunty Carol's right to privacy and reputation. Most of the other guests at the pub are travellers or young men. This right is also engaged for Tara, the existing tenant.

### Freedom of movement

Tara has a right to exercise choice over where she lives. Tara expressed a desire to move out of the unit due to personal reasons and was happy to be offered a property transfer.

Homelessness further limited many of Aunty Carol's other human rights.

Limited restriction  Significant restriction

Tara would be impacted by a property transfer, but it was aligned with her desire to move.

Any impacts from the decision to transfer properties would have a small impact upon her human rights.

Limited restriction  Significant restriction

## Decision

**Move Tara to a detached dwelling and allocate the ground floor unit to Aunty Carol.**



## Test Compatibility

With your decision in mind, answer these five questions to check if your decision is compatible with human rights.

Is the decision to transfer Aunty Carol and Tara to a new property compatible with human rights?

**Is 'the transfer' lawful? Yes** – The landlord has discretion offer a property transfer. The transfer is a lawful decision.

**Does 'a transfer' achieve a legitimate purpose? Yes** – The transfer enables Aunty Carol to move into a secure, accessible and affordable ground floor unit, out of homelessness and into appropriate accommodation.

**Is 'the transfer' rational? Yes** – The transfer provides an accessible home for Aunty Carol.

**Is 'the transfer' necessary? Yes** – The transfer was the least restrictive option to continue to support Tara and provide Aunty Carol with an appropriate home.

**Is 'the transfer' fair and balanced? Yes** – The transfer enabled Tara to continue receiving accommodation and support while also providing Aunty Carol with an appropriate home that accommodates her health conditions.

*\* The decision to transfer Tara and allocate Aunty Carol the crisis unit is likely to be compatible with the HRA.*



## Justify Decisions

Document a clear justification for the decision demonstrating the consideration given to human rights.

### Expected Outcome

Aunty Carol could proceed with her surgery and nurses could provide her with the post-operative care she needs. Aunty Carol will be able to access services and her community as her health allows and she can live with privacy in a secure home.

Tara will continue to receive services and support in her new home.



Aunty Carol required placement quickly.  
Aunty Carol's health conditions required a ground floor unit.  
Tara wanted to move properties.

Additional resources to support property transfer.  
Potential disruption to Tara's tenancy.

## Update

**Aunty Carol has had her first surgery and has regained sight in one of her eyes.**

**Quick thinking by the service provider placing red cardboard around light switches to make them easy to locate has made Aunty Carol's move easy, she now has an appropriate ground floor unit to live in.**

**Aunty Carol is regularly attending a women's group at the local community centre and is looking forward to regaining sight in her other eye (no pun intended).**

**Tara has a fresh start in a new property and is continuing to achieve her support goals.**

**By properly understanding Aunty Carol's imminent human rights concerns, the service provider was able to develop an innovated and balanced service response.**

**Document created December 2021**

*This case study is for training purposes only. It should not be relied upon as legal advice or information.*