

The background of the entire page is a vibrant, aerial view of a residential development. The houses are rendered in various bright colors like pink, purple, blue, and yellow, set against a backdrop of green trees and blue sky. The overall style is modern and colorful.

SUBMISSION TO MODERNISING SA'S RENTING LAWS

DEC 2022



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ABOUT US

The Community Housing Council of SA (CHCSA) is the peak body representing community housing providers (CHPs) in South Australia.

OUR MEMBERS

Our members provide housing services to over 25,000 South Australians.

CHPs offer a range of housing services, including:

- Specialised accommodation for people with disability;
- Affordable housing (with rent capped at 75% of market rates, supporting people on lower incomes);
- Social housing (for people who cannot access housing through affordable housing or private rental, owing to particular housing needs);
- Supported housing for previously homeless people and those requiring specialised supports in order to sustain their housing.

CHPs are not-for-profit organisations who develop and operate properties owned outright and manage properties leased from the SA Housing Trust, SA Health and other parties, in pursuit of their organisational mission.

CHPs form part of the social and affordable housing system in Australia (making up more than 25% of properties in the system) alongside public housing. As stand-alone non-government organisations, CHPs can offer a range of differing housing offerings within the multi-provider system operating in South Australia. This diversity of offerings increases choice for tenants in the system, while diversifying funding options away from reliance on government capital provision.

CHCSA

As the community housing peak body in South Australia, CHCSA contributes to policy development, coordinates information and responses to sector-wide issues, and advocates for a high-quality social and affordable housing system in SA that capitalises on the benefits of a multi-provider approach.



SUMMARY

CHCSA, as the peak body for CHPs, supports tenants' rights to stable and secure accommodation. Reforms to the Residential Tenancies Act that will advance the security and stability of rental accommodation are welcomed.

At the same time, CHCSA believes it is important to consider the impact of reforms on landlords – from several perspectives.

In some cases, there is a risk that increased tenant rights will lead to rental increases in the private market. This would not only impact directly on tenants, but may also lead to an increase in demand for social and affordable housing. In light of the significant pressure on the social and affordable housing system, CHCSA strongly recommends that reforms be introduced in such a way as to minimise the risk of tenants being priced out of private rentals.

Similarly, reforms that have the effect of reducing the supply of private rentals also have the risk to increase pressure on the social and affordable housing system. CHCSA recommends that the impact of reforms on rental supply also be considered, so as to minimise the risk of reducing rental availability.

In addition, social and affordable housing providers are often not in a position to increase rents to reflect increased costs; consequently, imposition of costs on landlords raises the risk that private rents will increase, while social and affordable housing providers will have to absorb these costs. In these cases, and when considering the interaction of the RTA with other housing programs, CHCSA believes there is a reasonable case for social and affordable housing providers to be exempted from requirements where these would otherwise serve to reduce the availability of housing for vulnerable people.

In these cases, CHCSA has recommended close consultation with CHPs to ensure implementation of reforms avoids any unintended adverse consequences.



INTRODUCTION

CHPs provide rental accommodation to vulnerable people, with an emphasis on community connections and development.

As organisations committed to providing stable housing as a crucial input in addressing challenges in people's lives, CHPs are supportive of reforms that support increased availability of long-term rental accommodation – both through support for tenants' rights and for reforms that enhance the supply of safe and appropriate rental properties.

In making this submission, CHCSA and its members have applied these two perspectives, through the lens of our ongoing commitment to housing for all Australians in need.





01

LONGER TENANCIES

CHCSA is generally supportive of reforms that will encourage availability of longer-term leases.

For CHPs, the terms of their leases are already largely prescribed by SA government policy, specifically the [Community Housing Allocations Guideline](#); the proposed changes are therefore unlikely to have direct impact on the majority of CHP tenancies.

1.1
Should the RTA include a requirement for landlords to provide a prescribed reason for the termination of a periodic lease or the non-renewal of a fixed term tenancy agreement, and if so, what should these prescribed reasons be?

FURTHER CLARIFICATION SOUGHT

CHCSA supports reforms to improve fairness of treatment and security of tenure for tenants.

While CHCSA is supportive of this reform direction, the potential application of such changes to the community housing sector may have complex impacts. There are a number of housing programs under which CHPs operate, with differing rules regarding eligibility. For example, many housing co-operatives have rules requiring members to contribute to the co-operative if they are to remain eligible for housing.

Similarly, many community housing properties are provided at rents significantly below market rates; in these cases, increased tenant income may render them ineligible for subsidised housing. Given the current shortages of social housing, CHPs need the capacity to ensure housing is available for tenants on low incomes.

Should prescribed reasons be introduced, CHCSA strongly recommends that detailed consultation work be undertaken with CHPs to ensure all appropriate reasons are prescribed.

1.2
Should the RTA be amended to accommodate longer fixed term tenancy agreements?

SUPPORTED

CHCSA supports amendments to the RTA to accommodate longer fixed term tenancy agreements.

CHCSA strongly recommends that clarity be sought regarding the impact of longer-term leases under the *Real Property Act 1886*, as lack of clarity (or any perceived issue) is likely to present a significant barrier to increasing longer-term leases. The Council is aware that concerns regarding the provisions of this Act are widespread.



01

LONGER TENANCIES

1.3

Should the minimum notice period required prior to the non-renewal of a fixed term tenancy agreement be extended to 60-days?

FURTHER CLARIFICATION SOUGHT

CHCSA supports provisions to increase tenants' security of tenure.

Our members have expressed some concerns regarding extending this notice period if it applies to social housing properties. CHP tenants facing termination of lease will have gone through multiple other steps before a notice of termination is issued, so the notice will not be unexpected. Experience of CHPs suggests that tenants may decline to pay rent once notice is served.

At present, this exposes CHPs to the loss of 28 days of rent; a longer notice period for CHPs is likely to impact on providers' financial capacity to support other vulnerable tenants.

If this change proceeds, CHCSA recommends a carve-out for CHPs (similar to other carve-outs currently existing for CHPs in the RTA).



02

RESIDENTIAL BONDS

2.1

Should the relevant limit be increased to \$800 to allow most tenants in SA to pay a bond of no more than the equivalent of 4 weeks' rent?

SUPPORTED IN PRINCIPLE

Bond thresholds in the RTA have limited impact on CHPs, as their properties are subject to income-based leases or discounts to market rates.

From a tenants' rights perspective, increasing the threshold for higher bond amounts makes sense. Whether \$800 is the correct threshold would be an empirical question relating to current market rents; CHCSA does not have data to allow us to take a position on the specific amount.

CHCSA recommends, however, that the threshold be specified in regulations rather than in the RTA itself. Specifying an amount in legislation, that requires Parliament to change the threshold, risks enshrining a "point-in-time" amount (similar to the current situation with the RTA). Specifying the threshold in regulations would allow adjustments to the threshold to be made more easily.



03

RENT BIDDING

3.1

Should landlords and land agents be prohibited from advertising a property within a rent range, putting a property up for rent auction and soliciting offers to pay an amount of rent above the advertised price?

SUPPORTED

CHPs' properties are not subject to rent bidding – the terms of programs under which they operate specify the basis for rent (either income-based or as a discount to market rent), and CHPs neither wish to, nor are able to, offer these properties at a higher rent.

CHCSA supports action to prohibit landlords and agents from soliciting rent offers above the advertised price.

In addition to the tenants' rights perspective, CHCSA has concerns that rental bidding has the potential to increase rents and thereby push tenants out of private rentals into the social and affordable housing system. Given the supply constraints currently experienced by this system, CHCSA and its members would be concerned at factors that reduce the availability of private rentals and increase demand for social and affordable housing.



04 ROOMING HOUSES AND SHARED ACCOMMODATION

4.1

Should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?

SUPPORTED IN PART

CHCSA and its members are cognisant of the importance of ensuring appropriate accommodation for people living in rooming houses or shared accommodation. To this end, we support the introduction of appropriate checks for operators of rooming houses/shared accommodation.

However, we have some concern regarding the potential impact of the proposed definitional changes on people living in shared disability accommodation. CHCSA would not support changes to the RTA that result in increased administration costs for providers of accommodation for people with disability (noting that such accommodation is already subject to a range of regulatory structures and oversight).

If the definition were changed, the Council strongly recommends working with the community housing sector to ensure alignment with other housing programs, or to include carve-out provisions.



05

RENTING WITH PETS

5.1

Should the RTA include the presumption that a tenant who applies to keep a pet in a rental property cannot have their request unreasonably refused, provided the tenant agrees to comply with any reasonable conditions imposed by the landlord?

CHPs are unlikely to use pet bonds (given the program rules under which they operate), but they acknowledge that pet bonds may assist in addressing landlord concerns regarding tenants' pets. CHCSA would support introduction of a pet bond scheme in SA if this enabled greater tenant access to pets.

5.2

Should a pet bond scheme be introduced in SA?

SUPPORTED

CHPs generally allow tenants of their properties to have pets, reflecting the importance of pets from a lifestyle perspective. Feedback from CHPs suggests that this does not lead to significant problems in property management.

CHCSA supports a presumption that tenant requests to keep a pet no be unreasonably refused.

Appropriate acknowledgement of strata and local government rules will be required in the RTA; it may also be appropriate to acknowledge that requests such as desexing of pets are reasonable from landlords.



06

HOUSING STANDARDS AND RETALIATORY EVICTIONS

6.1

Should the RTA include further complementary provisions to those proposed under Section 1 of this paper to ensure tenants can exercise their rights without the risk of a retaliatory eviction or rent increase?

SUPPORTED

CHCSA supports tenants exercising their rights.

6.2

Should the RTA impose minimum energy efficiency standards in rental properties?

SUPPORTED

CHCSA strongly supports tenant having properties that are energy efficient and environmentally sustainable.

The majority of the social and affordable housing stock in SA is made up of older properties, which do not align to contemporary energy efficiency standards. The investment required to bring older properties up to contemporary standards is likely to be substantial, and well beyond the means of CHPs and other social housing providers without support.

CHCSA recommends a phased introduction, allowing the new standards to be incorporated into asset management strategies. To ensure this change did not lead to a reduction in availability of social housing, CHCSA recommends that phase-in details be worked through in close consultation with CHPs.

CHCSA also notes that applying higher energy efficiency standards to older social housing properties will necessitate additional funding to CHPs to support the capital cost of bringing these properties up to standard.



07

SAFETY MODIFICATIONS AND MINOR CHANGES

7.1

Should the RTA be amended to prevent the unreasonable refusal of safety modifications and minor changes including the installation of wall anchors, child safety gates, childproof latches, wireless outdoor cameras, showerheads, and internal window coverings?

SUPPORTED

CHCSA notes that many community housing properties are covered by disability housing policies (e.g., the SA Government's Disability Housing Program) that require CHPs to install a range of modifications if required to support the tenant's ability to live in a property.

CHCSA recommends that tenants be required to request changes (and a provision that landlords not unreasonably refuse permission), and that there be provisions for removal and make-good of tenant modifications upon termination of the tenancy.



08

START OF TENANCY REQUIREMENTS

8.1

Should the RTA require prospective tenants to use a standardised application form in any application for a rental property that has questions that restrict the amount of personal information a landlord or land agent can gather about a prospective tenant?

Noting the above caveats regarding information collected by CHPs, CHCSA is supportive of steps to limit information that can lawfully be collected by landlords.

CHCSA strongly supports a prohibition on people being charged to access information being held about them on residential tenancy databases.

8.2

Should the RTA be amended to prohibit landlords, land agents and database operators from charging a fee to a person who requests a copy of the personal information about themselves that is listed on a residential tenancy database?

SUPPORTED

In the majority of cases, CHPs are required to allocate properties from the Single Housing Register, which collects a significant amount of data regarding potential tenants (e.g., income and assets).

CHCSA recommends that CHPs be clearly exempted from any RTA restrictions on information that can be collected by landlords. In addition to the need for CHPs to collect information to support eligibility under the Single Housing Register, a number of other programs (e.g., the Commonwealth National Rental Affordability Scheme) require that tenants prove income levels to demonstrate eligibility.



09

DOMESTIC VIOLENCE PROVISIONS

9.1

Are further amendments required to strengthen financial protections for victims of DV who are renting?

SUPPORTED

CHCSA strongly believes that victims of domestic violence should not be financially penalised for the actions of perpetrators.

CHCSA would support steps to prevent victims of domestic violence from losing their share of a bond because of perpetrators' actions.

Similarly, CHCSA does not believe that landlords should be financially penalised for the actions of domestic violence perpetrators.

CHCSA recommends further work be undertaken to identify potential solutions that will avoid financial penalties attaching to victims or landlords because of the actions of domestic violence perpetrators.



10

WATER BILLING

10.1

Should the RTA require landlords to provide tenants with a copy of any water bill the tenant is required to pay within 30 days of receiving the water bill?

NOT SUPPORTED

CHCSA is concerned that a requirement to provide tenants with a copy of a water bill within 30 days will amount to a significant administrative impost on landlords.

At present, CHPs (and other landlords with significant portfolios) do not receive individualised water accounts – SA Water provides a bulk property bill. If individual water bills were required for each property, it is likely this will lead to increased administration charges from SA Water for CHPs and other large landlords.

CHCSA recommends an exemption for large-scale landlords, if this requirement is introduced.

10.2

Should responsibility for the payment of the water supply fee be paid by the landlord, as is the standard practice in other jurisdictions?

10.3

Should landlords have a full or partial obligation to pay the excess water charges resulting from a reported water leak that remains unrepaired, noting this would require the RTA to define how excess water charges are identified?

SUPPORTED IN PART

CHCSA is generally supportive of requiring landlords to contribute to excess water charges resulting from a reported water leak that remains unrepaired.

However, CHCSA is also of the view that imposition of too many additional costs on private landlords is likely to result in an increase in private rental charges. Not only does this disadvantage social housing providers, who are not in a position to raise rents in a similar manner, but policies that increase the cost of private rentals are likely to increase the demand for social and affordable housing.

Given existing pressures on social and affordable housing, CHCSA would have concerns about any policies that will have the effect of increasing demand for social and affordable housing without a concomitant increase in supply.



11

ILLEGAL DRUG ACTIVITY

11.1

Should landlords who know or suspect that illicit drugs have been manufactured or regularly smoked in their property be required to undertake necessary remediation before leasing the property and provide evidence of this to prospective tenants?

SUPPORTED

CHCSA strongly supports the right of tenants to live in safe and healthy housing. This includes remediation of properties in which illegal drugs have been manufactured or regularly smoked.

Evidence from CHPs suggests that the costs of remediation in this situation can be in the order of \$20,000 – representing a potentially significant cost to landlords.

CHCSA has some concern that an obligation on landlords who “know or suspect” that illegal drugs have been manufactured or regularly smoked in a property will create a disincentive for landlords to monitor properties for illegal drug activity – so that they do not give rise to a basis for knowledge or suspicion.

CHCSA recommends that clear directions be provided as to what oversight landlords ought to have in place – so that the effect of the changes is to ensure remediation of properties affected by illegal drug activity, rather than to reduce monitoring of potential illegal drug use in rental properties.

If this recommendation proceeds, investigation into appropriate insurance products may be required.



12

THIRD PARTY PAYMENTS

12.1

Should the RTA prohibit landlords or land agents charging tenants an additional fee to make rental payments, whether this is directly or indirectly by passing on costs from third parties engaged by the landlord or land agent to facilitate payment?

SUPPORTED

CHCSA strongly supports the proposed change.



13

MODERNISATION OF LANGUAGE

13.1

Should terms within the RTA be updated? If so, which terms should be revised and what should they be replaced with?

SUPPORTED IN PRINCIPLE

CHCSA supports reforms to make the provisions of the RTA more accessible and clear to tenants.

If modernisation of language were to support tenants in understanding the RTA, CHCSA would be supportive.

However, CHCSA would not support “modernisation” if this were to mean a substitution of modern legal terminology for older, understood, terminology. For example, moving to the language of lessor/lessee is likely to render the RTA more confusing for tenants; CHCSA would not support such a direction.



CONCLUSION

The Community Housing Council of SA (CHCSA) appreciates the opportunity to comment on potential changes to the *Residential Tenancies Act 1995*.

CHCSA strongly believes that secure and stable housing is important in allowing people to live to their potential and contribute to society.

Steps to support tenants in finding and retaining such housing are welcome.

CHCSA also believes that an adequate supply of private rental properties assists in reducing demand for social and affordable housing; given the supply constraints of the social and affordable housing system in South Australia, CHCSA believes that maintaining availability of market rental is important in allowing the social and affordable housing system to meet the needs of vulnerable South Australians.

CHCSA recommendations regarding suggested changes reflect these two positions.

In a number of cases, proposed changes may interact in complex ways with other housing programs (e.g., prescribing allowable reasons for termination of leases). CHCSA strongly recommends that, if these changes are proceeded with, close consultation with the community housing sector be undertaken to avoid any unintended negative impact on the supply of social and affordable housing.





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