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Residential Tenancies Review
Consumer and Business Services
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To whom it may concern

LGA Submission - Modernising SA's renting laws - Residential Tenancies Act Review

The Local Government Association of South Australia (LGA) welcomes the opportunity to contribute to the review of the *Residential Tenancies Act 1995* (the RT Act).

The LGA is a strong advocate for policies that achieve better outcomes for councils and the communities they represent. Councils are a partner in government and part of the solution. The LGA provides leadership, support, representation, and advocacy relevant to the needs of our member councils.

It is acknowledged that some councils have enforced rooming/lodging house by-laws under the *Local Government Act 1999* over the years. The LGA are aware that the last council to operate a by-law specific to lodging houses - the City of Port Adelaide Enfield – removed their by-law as of 30 November 2022.

The main reason for this is that any complaints can now be addressed under the *South Australian Public Health Act 2011* (SAPH Act), the *Local Nuisance and Litter Control Act 2016* (LNLC Act), the *Planning, Development and Infrastructure Act 2016* (PDI Act), or referred under the *Housing Improvement Act 2016* (HI Act) or the existing RT Act.

In preparing this submission, the LGA has sought the views of its member councils and notes that this submission responds to reforms associated with Section 4, Section 9 and Section 11 of the *Review of the Residential Tenancies Act Discussion Paper* (Discussion Paper).

Section 4 - Rooming houses and shared accommodation

The Discussion Paper poses the following two questions:

- Should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?
- Should the RTA establish a registration scheme for rooming houses that have 5 or more residents and require 'fit and proper' person checks for proprietors?

LGA comment

Number of residents

Member councils have noted that the issue is not how many residents should be included in the definition to define a 'rooming house', rather it is the protections and rights (or lack thereof) the RT Act currently provides rooming house tenants, considering that the tenants typically (but not always) on these agreements have fewer resources available to them to dispute or raise issues surrounding the property or agreement.

Due to this, tenants are more willing to accept what they are given without dispute, even if it is unsafe or substandard. They are reluctant to raise issues with landlords as it can often be easier for the landlord to cancel the rooming house agreement and find a new tenant than correct the issue the previous tenant raised.

Changing the classification of what is captured as a rooming house from three persons to two persons is unlikely to provide any more protection for these residents. Nevertheless, our members have queried the reasoning for establishing a scheme that increases the definition from three to five people. Given the current RT Act definition is currently for at least three people, this would potentially leave more people vulnerable to unscrupulous proprietors.

Registration scheme

A registration scheme would be beneficial from the perspective of having knowledge of the number and locations of rooming houses as well as readily available proprietor details. This scheme would hopefully aim to ensure that proprietors are aware of their legislated obligations under the RT Act and other related legislation prior to leasing rooms.

However, this scheme, as introduced under the RT Act, should be solely managed by Consumer and Business Affairs and delegates.

It is unclear if there is an intent for local government to be in this space, noting the inferences made in the Discussion Paper, regarding what occurs in other jurisdictions. The LGA does not support local government as a licensing body for these premises.

The introduction of a licensing scheme is supported and, if regulated appropriately, is likely to have benefits by reducing the number of enquiries and complaints to local government to tackle matters under other pieces of legislation such as the PH Act and the LNLC Act.

'Fit and proper person' checks

It's unclear the benefit in determining whether the proprietor is 'fit and proper', and how this directly relates to their ability to manage a rooming house. A greater emphasis should be placed on the quality standards of living and how the proprietors intend on meeting their legislative obligations.

Additional regulation is required

There is and will continue to be, a need to appropriately oversee and regulate this space to prevent the exploitation and preserve the safety of tenants in 'rooming house' type setups. Any 'stronger standards' introduced should be captured under the RT Act in association with the HI Act.

The LGA believes the only area that local councils should be involved in, is where complaints are received that can be addressed under legislation administered by local government, such as the SAPH Act, the LNLC Act, and the PDI Act.

Furthermore, it is suggested that any 'stronger standards' need to have adequate enforcement tools to:

- Set a basic standard for the minimum requirements for a room, in terms of security, size, natural light, ventilation, etc.
- Set a basic standard for building safety and maintenance.
- Give clear and appropriate rights and appeals to tenants entering into agreements.
- Give the regulatory authority the ability to easily require compliance with these standards and consider regulatory tools such as:
 - Orders/legal notices to upgrade or maintain a property, including structural, health and fire safety aspects.
 - Expiations (must be more than rental income).
 - Rent control in extreme circumstances.
 - Tenant cap on a property in extreme circumstances.

It is suggested, from member feedback, that any legislation introduced to regulate this space will need to consider all different types of 'rooming houses' (existing, historical conversion, purpose-built etc.) and how it can capture and regulate these in a meaningful manner, giving consideration to existing legislation in this area and building on past experiences.

Currently, the rooming house sphere doesn't have much ongoing oversight, or clear standards and is predominately reactionarily regulated when sub-standard conditions are raised with a State Government authority. Minimum standards and expectations for these commercial properties should be made clear, along with clear legislative pathways to achieve compliance in this regard, should the landlord fail in their obligations to meet the requirements voluntarily.

Recognition as an affordable housing option

It is important to recognise that rooming houses are an affordable housing option for vulnerable people and those with limited resources. Considering the extremely difficult rental and housing market currently (and still trending), rooming house-type setups in what were previously single-family residential dwellings are becoming more common and do provide more affordable rental accommodation; but they need to be affordable, safe, secure, and appropriate.

Role of PDI Act and HI Act

Our members acknowledge that the PDI Act captures commercial rental properties and sets out requirements for fire safety provisions within these buildings (Classification 1B), however, this is only captured when submitting a development application for new premises and misses historical conversions if/ and or no Development Application is submitted. Therefore, the PDI Act lacks the regulatory ability to improve substandard building aspects in this sphere outside of fire safety.

The Housing Improvement Branch operating under the HI Act is well tooled to regulate this space regarding standards of living, with their ability to issue improvement orders and rent control substandard properties.

Strong enforcement deterrents should be considered in any changes to legislation. Clarity on legislative obligations should be conveyed to proprietors as a proactive approach to ensure tenants are provided with a living space that is both safe, suitable, and appropriate. Authorities need to be provided with a clear legislative pathway for regulation response.

Establishing a registration or licencing schemes for rooming houses, developing minimum housing and operational standards, and undertaking 'fit and proper' person checks are all positive changes, provided there is an appropriate body to regulate it. It is unclear from the Discussion Paper who the preferred licensing authority will be, however the LGA and its members do not believe that this should be the role of local government.

Section 9. Domestic violence provisions

The Discussion Paper poses the following question:

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

LGA comment

The LGA would support amendments that protect victims of DV within the RT Act.

The LGA are cognisant that older women are the fastest growing group of people experiencing homelessness in Australia and commend the State Government for the establishment of the Older Women's Housing Taskforce. Their involvement in improving housing security for this group through new mechanisms in the RT Act would be welcomed.

Section 11 – Illegal drug activity

The Discussion Paper poses the following question:

- 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?

LGA comment

Yes, this requirement would be supported. Landlords who know or suspect that illicit drugs have been manufactured or used should be required to undertake remediation before leasing the property to protect the health and wellbeing of future tenants.

There is a concern that many of these properties aren't currently being reported to councils who deal with this issue under the *South Australian Public Health (Clandestine Drug Laboratories) Policy 2016* and the SAPH Act. Therefore, additional regulation in this space would also likely assist with the notification of clandestine drug laboratories to councils.

It is suggested that messaging alerting landlords that any manufacturing of illicit drugs should be reported to SAPOL. This way a report can be made triggering the appropriate response from the relevant council and addressed as per the normal clandestine laboratory notification process.

Councils would not likely issue a Notice under the SAPH Act where there has been drug use and/or smoking, only if manufacturing has occurred. However, any rooms 'suspected' to be contaminated from drug use/smoking should be cleaned/remediated to remove any potential health impacts.

It is suggested that guidelines around the appropriateness of cleaning methods for suspected drug use would be beneficial for landlords and property managers.

Thank you again for the opportunity to provide feedback. If you would like to discuss this submission further, please contact Senior Policy Officer, Belinda Tassone on 08 8224 2051 or email belinda.tassone@lga.sa.gov.au.

Yours sincerely



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