

OFFICIAL



Health

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Residential Tenancies Review
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RE: Residential Tenancies Review

Office for Ageing Well is established under the *Ageing and Adult Safeguarding Act 1995*, which sets out its functions and objectives, including supporting South Australians to age well and contributing to policies that impact on older people. Office for Ageing Well is committed to continued engagement with a diverse range of older South Australians and collaboration with government, non-government and community organisations.

Office for Ageing Well welcomes the opportunity to provide a submission regarding the review of the *Residential Tenancies Act 1995* (the Act) and its subordinate legislation, which aims to achieve reforms that meet the needs of the contemporary housing market, improve the rights and safety of renters and effective rental property management.

These aims align with views expressed by over 1500 older South Australians engaged in the development of *South Australia's Plan for Ageing Well 2020-2025*. Importantly, seeking to create opportunities in the rental market for housing with improved security of tenure and stability; homes that support sustainable and affordable lives and opportunities to remain physically and socially connected in our neighbourhoods as we age.

Please find attached the Office for Ageing Well submission. I look forward to the outcomes of the review and the implementation to follow.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Cassie Mason'.

CASSIE MASON

Acting Executive Director, Office for Ageing Well

16/2/2022

Encl. Office for Ageing Well Submission to Review of the *Residential Tenancies Act 1995*.

Office for Ageing Well – Submission – Review of the *Residential Tenancies Act 1995*

Background

Office for Ageing Well takes the lead on state government policy to support South Australians to age well, working in collaboration with a diverse range of older people, government, non-government and community organisations.

[South Australia's Plan for Ageing Well 2020-2025](#) (the Plan) outlines the State Government and community's vision and priorities for ageing well for all South Australians. Developed together with over 1500 older South Australians and other stakeholders across the state, the Plan identifies the centrality of 'home' as being key to a good life with 'Home and Community' one of three key strategic priorities.

The views expressed by older people aged 50 years + in the development of the Plan align well with the aims of the proposed reforms in seeking to create opportunities in the rental market for housing with improved security of tenure and stability; homes that support sustainable and affordable lives and opportunities to remain physically and socially connected in our neighbourhoods as we age.

This was further confirmed through the recent statewide engagement process with 2400 older people, community organisations and other stakeholders, which was undertaken on behalf of Office for Ageing to update the direction for Safeguarding the Rights of Older South Australians, due to be released in 2023. This work will inform the future policy direction for elder abuse prevention, awareness raising and response across our state. Safe and secure homes where older people have security of tenure and can live on their own terms, was identified as a strategic priority, fundamental to safeguarding the rights of older people to live and age well.

Restriction of rent bidding / auctions and improving rental affordability

[South Australia's Plan for Ageing Well 2020-25](#) notes that whilst the majority of older households (55yrs +) own their own homes, the rate of households in this age group still paying off a mortgage tripled from 7% in 1995-96 to 21% in 2015-16.

Overall rates of home ownership in South Australia have decreased from 40% in 1998 to under 30% in 2022. As home ownership in older age continues to decrease, an increasing number of older people are relying on private rental, often requiring rental payments to be serviced from fixed incomes.

The rental affordability snapshot conducted in April 2022 by Anglicare Australia indicated a single person on minimum wage could afford 1.6%, of available rental listings. For a couple receiving the age pension this figure was 1.4%. This is combined with low rates of rental vacancy in South Australia, reported to be the lowest in Australia during 2022. Older people who were consulted to inform the updated direction for Safeguarding the Rights of Older South Australians highlighted the link between greater risk of homelessness experienced by older people, faced with increasing rents and lack of access to affordable and accessible accommodation.

Office for Ageing Well supports proposed amendments to the *Residential Tenancies Act 1995* (the Act) highlighted in the discussion paper that will increase rental affordability, including

consideration of proposed measures to prohibit rental auctions and soliciting offers of rent above the advertised price.

Older women in rental accommodation

The importance of rental affordability and security of tenure is particularly pertinent to the growing cohort of older South Australian women aged 50 years+ who are at increased risk of homelessness. Office for Ageing Well is a member of the Housing Security for Older Women Taskforce (Taskforce), led by SA Housing Authority to investigate and address housing challenges linked to a raft of current and historical factors including, access to financial assets such as superannuation, caring responsibilities, lower lifetime incomes and domestic and family violence.

Between 2006 and 2016, the rate of older women experiencing homelessness increased by 44% from 4,800 to 6,900. This figure is however likely underestimated, due to the hidden nature of older women's homelessness.

The vulnerabilities of older women to housing insecurity are amplified for those who are single, unable to share living expenses, and those facing intersectionality of additional barriers such as those living with disability and those that identify as Aboriginal and Torres Strait Islander or from culturally and linguistically diverse backgrounds.

South Australia's Plan for Ageing Well 2020-2025 will guide the themes of action for the Taskforce. These include:

- Accessible supports that make existing homes more flexible to people's changing needs and wants over time
- Models and options for creating homes that suit a greater diversity of needs and aspirations.
- Affordable and accessible homes.

Office for Ageing Well supports considerations expressed in the discussion paper that acknowledge the unique experiences of women as the fastest group of people experiencing homelessness in Australia and supports consideration of amendments to the Act to strengthen financial protections for women, including older women experiencing Domestic and Family Violence who are renting.

Office for Ageing Well proposes that financial protections are also considered for older renters experiencing or at risk of elder abuse, experienced by 1 in 6 Australians aged over 65 and often involving a household member or someone they love and trust¹.

Increasing security of tenure

Office for Ageing Well's work on updating the direction for Safeguarding the Rights of Older South Australians has identified that a safe living environment and secure tenure are the foundation for safeguarding older people's rights, enabling them to connect with people and services within their community and to feel a sense of belonging.

The Future of the Rental Market Symposium jointly hosted in South Australia by The Centre for Health in All Policies Research Translation, The Australian Centre for Social Innovation, Uniting Communities and Junction Australia in 2022 highlighted affordable, good quality,

¹ National Elder Abuse Prevalence Study: Final Report (2021). [National Elder Abuse Prevalence Study: Final Report \(aifs.gov.au\)](https://aifs.gov.au/nelap)

stable and secure housing as a key requisite for promoting health and equity, preventing illness and building healthy and inclusive communities.

It is widely established that the opportunity to age in place, whereby older people are able to maintain connection with their networks, services, neighbourhood and community is fundamental to living and ageing well.

Office for Ageing Well supports measures that improve housing security and strengthen tenure in rental accommodation, particularly for older people, and consideration of mechanisms to accommodate longer fixed term tenancy agreements, increase the minimum notice period required prior to the non-renewal of a fixed term tenancy and standardise and streamline bond arrangements.

Office for Ageing Well supports development of provisions to ensure tenants can exercise their rights without the risk of retaliatory rent increases or eviction.

Prescribed reasons for termination and non-renewal for retirement village rental properties

Section 57(1) of the [Retirement Villages Act 2016](#) allows land which is not immediately required for the retirement village scheme to be leased to eligible persons. An eligible person is aged 55 years and over and retired from full-time employment. Such leases are under the *Residential Tenancies Act 1995*. When redevelopment is planned for a village, operators may rent units out until all residents under the *Retirement Villages Act 2016* have vacated, at which point the operator would obtain possession of the units for demolition and rebuilding. Termination reasons would need to allow a retirement village operator to end a tenancy when the land is again required for the purposes of the scheme, otherwise the units may be left empty instead of being leased out.

Occasionally, inappropriate resident behaviour may cause disruption and distress to other retirement village residents. Where a renter is responsible, a termination of the tenancy without a prescribed reason can resolve the issue without the need for often vulnerable and distressed neighbours to give evidence at a hearing. While increasing the security of tenure for tenants is desirable, consideration of the efficacy of being able to terminate in such a situation described here, is supported.

Renting with pets

The integral role of pets in the life of many South Australians and the benefits to physical, mental and emotional health noted in the discussion paper is welcomed. In 2020, the University of South Australia, with support from Office for Ageing Well, co-designed the Pets and Older People project with older South Australians, developing a continuum of measures to support continued human-animal connections into older age, to be explored as part of the implementation of *South Australia's Plan for Ageing Well 2020-2025*. The study highlighted abolishing the 'no pets' rule in rental accommodation for older people, as a key outcome of the report.

The role of pets in supporting human resilience, catalysing community connections and protecting against physical and psychological decline was highlighted in the Office for Ageing Well's consultations around updating the direction for Safeguarding the Rights of Older South Australians. It is intended that the need to safeguard the rights of older people to maintain access to pets and companion animals in their lives will be enshrined in an updated *Statement of the Rights and Freedoms of Older South Australians*, due to be revised in 2023.

The discussion paper notes that when tenants are unable to find suitable housing that will accept their pets, it can result in a pet being abandoned, surrendered or put down. Evidence suggests that the experience of relinquishing a pet can be deeply traumatic for older people and may also contribute to risk of homelessness due to not wanting to give up a pet.

Office for Ageing Well shares the concerns referenced in the discussion paper regarding the introduction of a pet bond scheme due to the potential of this to compound financial pressure on older pet owners, often with fixed incomes.

Office for Ageing Well supports the proposed amendments to the Act to prohibit 'unreasonable refusal' from a landlord of a request to keep a pet, provided the tenant agrees to comply with any 'reasonable conditions'. It is noted that the circumstances in which a landlord may reasonably refuse a pet, and what constitutes 'reasonable conditions' should be further clarified and defined in the Act, as there is a risk that both terms could be interpreted broadly by landlords, resulting in a tenant's reasonable request to keep a pet being unnecessarily and unfairly denied. An example provided in the discussion paper is keeping a pet outside. This is unlikely to be universally agreed as a 'reasonable condition' and with reference to cats, it may also contravene Local Government bylaws in some South Australian jurisdictions.

The requirement proposed in the discussion paper for a person to apply to the South Australian Civil and Administrative Tribunal (SACAT) for a determination on whether conditions for keeping a pet imposed by the landlord are deemed 'reasonable', would need to be clearly set out in the Act. Clarification would be needed regarding whether this would only apply to an existing tenant and how it would operate for a prospective tenant, regarding a proposed 'reasonable condition' in their agreement, before a lease is signed.

Pets in retirement villages

Retirement villages are a valuable source of secure accommodation for older people, including a significant number of renters. Residents live in close proximity and share communal areas. While pets promote wellbeing in many lives, for some they are a cause of anxiety and stress, and they may choose to live in a village with no pets. Any changes to the Act would need to consider exemptions for retirement villages to maintain a pet-free policy.

Minimum energy efficiency standards in rental properties

The benefits of thermally efficient homes in promoting health and wellbeing of older people are well established. University of Adelaide research conducted in 2022 examined the health implications of the thermal environment of housing for older people. Results of this study indicate that concerns regarding energy costs inhibits use of cooling and heating with two thirds of older participants reporting negative effects of health and wellbeing at room temperatures above and below the optimal range.

Office for Ageing Well supports an approach that establishes minimum energy efficiency standards in rental properties, noting as highlighted in the discussion paper, that this introduction is likely to need to be gradual to ensure it does not result in reducing supply of properties available to rent.

Safety modifications and minor changes

Office for Ageing Well worked with older South Australians, housing industry professionals, business, universities, and policy makers to identify a set of guiding principles for housing and precinct design, to support ageing well, published in the [Housing for Life, Designed for Living](#) report. The outcomes of this work have been used to inform South Australian government housing developments by then project partner Renewal SA, and have been shared across the broader housing industry.

The project identified that a key element of the concept of 'Home' is the expression of identity, enabling older people to express who they are by personalising their space and connecting them to personal history. Equally important, is the capacity for older people to make safety modifications to their rental property if these become necessary to enable ageing in place and maintaining connection to their network, services and community.

Consideration of amendments to the Act that allow minor alterations at the tenants own expense such as safety modifications and other small modifications to personalise dwellings is supported.

Modernisation of language

Office for Ageing Well supports the modernisation of language in the Act and the consideration of terms such as those used in Victorian rental laws such as replacing the term 'landlord' with 'rental providers' and 'tenants' with renters. These are seen as a positive move to redress the power imbalance implied by the use of terms 'landlords' and 'tenants'. The modernisation of further terms to replace 'tenancy agreements' with 'rental agreements' and 'rooming house owners' with rooming house operators' is also supported.