



Government
of South Australia
SA Housing Authority

Review into the Residential Tenancies Act 1995

SA Housing Authority submission

December 2022

Summary

As at 30 June 2022 the SA Housing Authority (Authority) manage almost 33,000 public and state owned and managed Indigenous housing tenancies across South Australia, housing almost 52,500 people or just under 3% of the South Australian population. The Authority has a vested interest in a further 13,500 community housing tenancies, by way of funding or other partnerships. In addition to tenancy management of public housing, the Authority also funds specialist homelessness services to over 20,000 people per year, provides private rental assistance to support people access and maintain tenancies in the private sector, with 51,612 active bond guarantees lodged as of 30 June 2022, and oversees Housing Safety and Community Housing Regulation.

The Authority welcomes a review that will provide consistency, quality outcomes for renters, and equality of power between parties, especially South Australia's most vulnerable and disadvantaged. The Authority views housing as a basic human right, and with supply of affordable housing at an all-time low, never has there been a more critical time to ensure protections and mechanisms are in place to support people to access safe, quality, affordable housing.

Housing is the critical component in enabling both positive and negative social determinants of health and wellbeing. It can provide stability, safety, a place for belonging where education and economic participation can thrive, or at its worse or in its absence, can make us ill, lead to further disadvantage or disconnection.

As the largest landlord in South Australia, the Authority understands the complex relationship between home as a basic human right, and property being seen as a commodified asset. It is hoped that this review will seek to equalise that balance that provides a harmonious relationship between landlord and tenant based on what is fair and reasonable and acceptable to the broader South Australian community. A commonality, that enables enough commercial incentive to make residential property investment attractive, whilst still providing housing which is safe, secure, accessible, affordable and meets the individual needs of the communities most disadvantaged and vulnerable.

South Australia is seeing the lowest rental vacancy rate in the country, currently at 0.3%. Rents have increased substantially since the onset of the COVID-19 pandemic, recently rising 13% for houses in Greater Adelaide in the 12 months to September 2022, behind only Brisbane. These figures are well above the median increase, following from a similar increase in the preceding 12 months, for substantial growth over the past two years. Rental affordability overall has worsened, largely in line with the national total, and is more prevalent in Adelaide than the rest of the state, where growth has been less acute, but supply pressures often more severe. As the rental market has tightened, people who would previously never have had contact with the homelessness and social housing systems are increasingly seeking assistance from providers but are often not eligible to receive support due to their income and absence of individualised barriers.

In addressing the questions relating to the balance of responsibilities between landlords and renters, the Authority has considered its own operational policy settings and how they align to the private sector.

The Authority has also considered how the current housing crisis has impacted on the homelessness system, and how the proposals of the discussion paper could contribute to reducing the risk of homelessness for South Australians.

Recommendations

Recommendation 1	<p>Support increased protections and stability that balance home as both a human right and a commodified asset., including:</p> <ul style="list-style-type: none"> 1.1 Ending no-ground evictions using the reasons set out in section 80 and 81 of the Act 1.2 Enabling longer-term leases with clarity of anticipated rent increases 1.3 Increasing the minimum notice period for non-renewal for fixed term leases
Recommendation 2	<p>Strengthen mechanisms to enable the reduction of financial hardship and disadvantage, by</p> <ul style="list-style-type: none"> 2.1 Reducing bond from 6 to 4 weeks' rent 2.2 Improving the accessibility, transparency, security and proactive capability of Residential Bonds Online (RBO) 2.3 Preventing bond products that present additional financial hardships on tenants 2.4 Considering part bond release during bond disputes for less than the total bond amount
Recommendation 3	<p>Prohibit rental bidding, and ensure properties are advertised with the actual weekly rental amount which is not leveraged as part of the application process.</p>
Recommendation 4	<p>Ensure rights, responsibilities and necessary protections are in place to cover alternate residential accommodation models, especially those used by vulnerable and disadvantaged cohorts.</p> <ul style="list-style-type: none"> 4.1 Expand the definition of rooming house from at least 3, to at least 2 people. 4.2 Establish a registration scheme for rooming houses driven by unrelated persons' risk, rather than commercial occupancy rates. 4.3 Explicitly define rights and responsibilities for other residential accommodation models not currently included. 4.4 Strengthen protections for shared lease arrangements.
Recommendation 5	<p>Protection and clarity around pet ownership in rentals.</p> <ul style="list-style-type: none"> 5.1 Allow pets as standard, with clear definitions of reasonable refusal and conditions in relation to pet ownership. 5.2 No additional bond scheme specific for pets.
Recommendation 6	<p>Strengthen measures and set targets to ensure minimum standards are enabled and parties are not unreasonably impacted.</p> <ul style="list-style-type: none"> 6.1 Better integration of outstanding Housing Safety Authority Orders with re-letting processes. 6.2 Increasing minimum maintenance delegated spend limits for property managers. 6.3 Energy efficiency targets for existing dwellings, and considerations for ensuring residential property investment remains attractive and cost-of-living benefits for tenants are not negated. 6.4 Energy efficiency minimum standards for new constructions intended for residential rental investment.
Recommendation 7	<p>Provide clear definitions of what is classed as reasonable and unreasonable refusal in relation to safety modifications, minor changes and NDIA endorsed disability modifications.</p>

Recommendation 8	<p>Transparent, accessible and equitable tenancy data and databases.</p> <p>8.1 Use of standardised application forms.</p> <p>8.2 Nil fee access to personal information held.</p> <p>8.3 Establishment of landlord and property agent databases to provide renters with the same access to information to make informed decisions about the parties they enter into an agreement with.</p>
Recommendation 9	<p>Support measures to strengthen financial protections for people experiencing domestic violence, with a preference for apportioning financial liability on the perpetrator of violence.</p>
Recommendation 10	<p>Payment for water supply and usage is fair and equitable.</p> <p>10.1 Provision of a copy of the water bill to tenants.</p> <p>10.2 Water supply to be paid by the landlord, usage by the tenant.</p> <p>10.3 Landlords to pay excess water usage where a leak has been reported but not repaired in a reasonable timeframe.</p>
Recommendation 11	<p>Following illegal drug activity, properties are to be properly remediated and ensure meet the minimum Housing Improvement Regulations 2017 prior to re-letting.</p>
Recommendation 12	<p>Ensure a fair and equitable comparison of rental costs where management of properties is factored into weekly rental amounts and no additional fees for the administration of the property, such as third-party payments are charged to the tenant.</p>
Recommendation 13	<p>Guided by advocacy and lived experience groups, maximise access and understanding through simple, plain English, easy to understand terms.</p>
Recommendation 14	<p>Strengthen oversight, proactive decision-making and safeguarding through improved governance and accountability mechanisms.</p> <p>14.1 Qualifications of landlords</p> <p>14.2 Data management that enables integration and interoperability that improves outcomes for tenants and the broader housing and homelessness sector.</p> <p>14.3 Standardised satisfaction feedback mechanism that contributes to ongoing renting reform and improvement.</p>

Contents

Summary.....	1
Recommendations	2
1. Longer tenancies	5
2. Residential Bonds.....	7
3. Rent Bidding	8
4. Rooming Houses and Shared Accommodation.....	9
5. Renting with Pets.....	10
6. Housing Standards and Retaliatory Evictions	11
7. Safety Modifications and Minor Changes.....	13
8. Tenancy Requirements.....	13
9. Domestic Violence Provisions.....	14
10. Water Billing	15
11. Illegal Drug Activity	16
12. Third Party Payments	16
13. Modernisation of Language.....	16
14. Additional Feedback	17
Qualifications of Landlords	17
Data management and streamlining	17
Tenant voice.....	17

1. Longer tenancies

Recommendation 1: Support increased protections and stability that balance home as both a human right and a commodified asset, including:

- 1.1 Ending no-ground evictions using the reasons set out in section 80 and 81 of the Act
- 1.2 Enabling longer-term leases with clarity of anticipated rent increases
- 1.3 Increasing the minimum notice period for non-renewal for fixed term leases

Discussion question: 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?

The Authority strongly supports ending no-grounds evictions. Considering national trends away from 'no-grounds' eviction, it would be appropriate for South Australia to do the same and maintain consistency with other jurisdictions. The current process presents little preparation for the tenant to find alternate accommodation. Additionally, a lack of information about the reasons for a previous tenancy ending can act as a barrier to a renter securing new accommodation or support services, thereby increasing the risk of homelessness accompanying the end of the tenancy.

Both the current legislation and the proposal outlined in the discussion paper provide a broad range of reasons that are considered to be valid for ending or not renewing a tenancy, including breach of tenancy, asset management and personal use reasons. The Authority would consider that the prescribed reasons listed in the current legislation under sections 80 and 81 are sufficient to cover situations in which a tenancy may reasonably be ended. That is to say, the reasons provided for ending a periodic lease are appropriate for non-renewal of a fixed-term lease.

However, in the cases of renovation and sale, the Authority would recommend that these be considered carefully. The application of the 'sale of property' reason should sit with the property purchaser, not the seller, as the buyer may be interested in keeping the property in the rental market. Removing a property from the rental market for the period of sale unnecessarily reduces rental housing available given the new owner has rights to cease the tenancy if they require the property for occupation or renovations/redevelopment. The termination of leases due to an upcoming sale creates unnecessary pressure into other rental markets, and even homelessness services at substantial cost to the Government and the wellbeing of tenants.

Discussion question: should the RTA be amended to accommodate longer fixed term tenancy agreements?

Lease length, and the importance of stability for people with vulnerabilities and complex needs, is often cited as a critical factor in achieving housing stability. Many customers, particularly those with disabilities, consider that the private rental market's scarcity of long-term lease options pose a barrier to establishing a stable and sustainable tenancy. Access to stable and long-term housing has also been identified as a foundation to enabling outcomes in key areas for the *Closing the Gap* targets and reforms. Importantly, longer-term leases can deliver strong benefits for both tenants and landlords alike, providing security of residence and income respectively.

Shorter tenancies particularly disadvantage people on low incomes, both financially and socially. There are significant costs associated with frequent relocations, along with disruptions to social and community connections, such as schooling for children and accessibility of employment opportunities. Longer tenancies provide greater security and particularly benefit some cohorts, such as people with young children, older women and people with disabilities. Reducing the frequency with which people

are required to move can promote healthy, strong communities keeping people connected to their social and community networks and reducing the health and homelessness costs of social isolation.

The Authority also notes the interplay between length of lease terms and end of tenancy provisions. In theory, if termination of a tenancy and non-renewal require prescribed reasons, legitimate grounds for evictions should be upheld by the Tribunal irrespective of the tenant's lease length. What would need to be considered further is when a property owner requires the property for occupation, sale or major renovations, and what kind of notice period within a long-term lease would be appropriate to facilitate this.

Consideration should also be given to emerging build-to-rent models where long-term leases with fixed rental increases are being established.

Another option which may be considered to facilitate longer-term leases is automatic renewal. Under such a mechanism, a tenancy is considered to be successful by default, unless issues are identified through inspection and resolution mechanisms. This would reduce administration and workload of landlords and agents in renewing the leases of successful tenancies.

The Authority notes that longer-term leases are already in operation for commercial purposes, and there are learnings from this application which are relevant to residential contexts. These leases provide long-term security to asset owners, with rent increases tied to CPI changes, enabling both parties to anticipate likely rent changes in advance.

The Authority recognises and respects that short-term leases have an important role in the sector as well, providing critical flexibility for landlords and tenants when required. For instance, where a short-term accommodation option is required during recovery from a natural disaster. While longer-term leases may be the preference, changes to the RTA must not prevent properties from being used flexibly under appropriate conditions and by mutual agreement.

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

The Authority supports increasing the notice period required prior to non-renewal of a tenancy from 28 days to 60 days. This will maximise the tenant's chance of securing another tenancy and reduce the risk of homelessness. This is particularly important in periods of low vacancy rates, such as are being experienced presently in South Australia, in which securing another tenancy is extremely competitive and may take considerable time to achieve. Since the onset of the COVID-19 pandemic, the Authority has observed the regular presentation of private renters for emergency accommodation due solely to market conditions, without any individualised risk or barriers that would preclude them from accessing or maintaining a tenancy under normal circumstances. Given the current market, and the extreme challenges renters are having in accessing properties, the Authority would advocate for greater notice periods dependent on the term of the lease agreement.

2. Residential Bonds

Recommendation 2: Strengthen mechanisms to enable the reduction of financial hardship and disadvantage, by

2.1 Reducing bond from 6 to 4 weeks' rent

2.2 Improving the accessibility, transparency, security and proactive capability of Residential Bonds Online (RBO)

2.3 Preventing bond products that present additional financial hardship on tenants

2.4 Considering part bond release during bond disputes for less than the total bond amount

Discussion question: 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?

For all properties the Authority supports a 4-week bond limit. If a limit of \$800 is considered as a necessary compromise, this should be indexed in line with average rental increases.

The Authority notes that of the bonds issued through the Private Rental Assistance Program (PRAP), the vast majority of those claimed, are claimed for less than 4 weeks' worth of rent, indicating that in most cases, a six-week bond is not required for low-to-moderate rent tenancies. While this is not reflective of all South Australian tenancies, it can be considered to be a strong sample size of lower-rent properties in line with the PRAP eligibility limits.

The existing requirement for a six-week bond creates enormous financial hardship for tenants. The current median rent for a house in Adelaide is \$480 per week, amounting to a bond of \$2,880. Adding the customary two weeks' rent in advance raises the up-front total to \$3,840, before considering moving costs, utility connections and other costs. Further, should the tenancy not be renewed, the tenant will need to save a second bond while the first is still held, resulting in substantial amounts of the tenant's money being held at the same time. For tenants on low incomes, this is highly prohibitive. The Authority also recognises that the concept of personal financial wealth is often in conflict with Aboriginal cultural values and beliefs, where care and obligation for family across extended and complex kinship relationships; takes precedent to 'savings' and may preclude an Aboriginal person or family from accumulating individual wealth to afford a six-week bond, let alone two at the same time. While the Authority can provide bonds through PRAP, the program's income and asset limits do not enable all potential customers to access the service.

Discussion question: should the RBO be made mandatory and require additional tenant contact details upon registration to minimise unclaimed bonds?

The Authority supports mandatory use of Residential Bonds Online where possible, however notes that for some people who have limitations with using the internet, a paper-based application version should also be readily available that can be lodged on the client's behalf.

Consideration should be given for tenants, especially those in regional and remote areas, that do not have access to appropriate technology or digital literacy skills to comply with a mandatory electronic process.

The registration of tenant contact details currently sits with the landlord. In collecting additional personal information, there are a number of considerations that need to be taken into account and appropriately governed by the data custodian of such online based systems:

- Ability for tenants to enter their own information
- Education and awareness for the party whose details are being captured (i.e. the tenant) and why it's important that they are provided and regularly updated

- How personal information for particularly vulnerable groups of people such as women experiencing domestic violence, people exiting institution or corrections, younger people exiting care is being collected, stored and accessed
- What governance or oversight may need to be put in place to enable proactive use and protection of the information collected

The online bonds lodgements system should provide the opportunity for customers to initiate the lodgement and release of their own bond and have more visibility and transparency of unclaimed bonds and unduly timeframes for release of bond monies. Combined with education that highlights the rights and responsibilities of tenants with regards to their bonds, this should make for a more open and transparent approach.

Additional comment: alternative bond loan products

The discussion paper commented on the proposition of alternate bond products either through underwriting via an insurance contract or payday lending. The Authority does not support any proposition that results in high interest and penalty-based lending and places additional financial stress in which to seek assistance to access housing. The Authority’s Private Rental Assistance Program provides low-income and vulnerable customers with bond guarantees and rent advance with no additional charge.

Additional comment: partial bond release in instance of dispute

The Authority considers part bond releases would also assist renters transitioning between accommodation. In the event of a dispute for less than total amount of the bond, the undisputed portion of the bond could be released earlier to the tenant. This would support tenants to manage the costs of moving and reduce the risk of financial hardship due to drawn-out bond disputes and releases.

Additional comment: timeframes for bond release

The Authority notes that there can be substantial delays in bond releases, even when undisputed, and that this has significant affordability implications. Consideration should be given to establishing minimal release periods.

3. Rent Bidding

Recommendation 3: Prohibit rental bidding, and ensure properties are advertised with the actual weekly rental amount which is not leveraged as part of the application process.

Discussion question: 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?

This practice should be prohibited and focus on the actual weekly rental amount that is known upfront at the point of application. Victoria, Queensland and ACT have led the way by introducing this legislation.

This provision will seek to reduce the impact of financial discrimination for those that get priced out of the market before they can even apply. Additionally, this approach enables a more planned approach to managing personal finances that wouldn’t see people locked into terms that put them in future or ongoing rental stress, that may not have presented if not for a bidding war or opportunistic price hikes during tight rental markets.

4. Rooming Houses and Shared Accommodation

Recommendation 4: Ensure rights, responsibilities and necessary protections are in place to cover alternate residential accommodation models, especially those used by vulnerable and disadvantage groups.

- 4.1 Expand the definition of rooming house from at least 3, to at least 2 people.
- 4.2 Establish a registration scheme for rooming houses driven by unrelated persons' risk, rather than commercial occupancy rates.
- 4.3 Explicitly define rights and responsibilities for other residential accommodation models not currently included.
- 4.4 Strengthen protections for shared lease arrangements.

Discussion question: should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?

The Authority is supportive of an expanded definition of a rooming house, from at least 3 people, to at least 2 people being provided residential accommodation on a commercial basis. Expanding the definition to include houses accommodating two or more residents will provide increased protections to both landlords and tenants, and can also be used to support homeowners in having a live-in boarder.

Under present settings, the Authority is not able to provide bond assistance in these situations as they are outside of the Act, which can potentially be the difference between a customer securing a housing outcome or accessing homelessness services.

Additionally, the definition of rooming house or a separate definition should also be considered to appropriately cover and offer protections for supported and independent living group homes. From a tenancy perspective, tenant rights, responsibilities and eligibility for private rental assistance is not clear for this type of accommodation that support people living with disability, young people exiting care, or the aged. Shared housing options delivered by government and non-government providers are becoming more common and should be taken into consideration as part of this review to ensure tenant rights and responsibilities are clarified. Any modification or inclusion of expanded definitions should also ensure alignment with relevant Residential Aged Care, Child Safety and Young People and Boarding House legislation. The Authority acknowledges this may trigger or inform reviews of additional legislation e.g. *Supported Residential Facilities Act 1992*.

Discussion question: 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?

The Authority is supportive of the introduction of additional mechanisms to maintain a fair balance between the rights and obligations of rooming house proprietor and residents. Minimum housing and operational standards and the inclusion of 'fit and proper' person checks on potential proprietors is a sound suggestion to achieve this.

However, it is recommended that South Australia take a similar approach to Victoria - for the trigger of any such registration scheme to focus on unrelated persons, rather than the commerciality of the arrangement.

Additional comment: other accommodation types

A defined position on other accommodation types that are currently not covered explicitly by the Act should be considered by the review. These may include renting a room in a private dwelling, hotels offering long-stay accommodation, granny flats or co-located modular housing. Broader protections for occupancy agreements, which consider the unique attributes of these shared arrangements, similar to those incorporated in the ACT's tenancy legislation, would be beneficial for people renting in these types of situations.

This would also enable people to access bond and rent assistance when seeking accommodation from other accommodation types not currently eligible.

Additional comment: shared leases

An exploration of the current barriers and enablers to alternate housing models should be progressed as a priority. This should include a critical examination of protections in place for those in shared leasing arrangements. Some key considerations include:

- Protections and dispute resolution pathways in place between the co-tenants; in the event one party is meeting all the requirements, what rights do they have when other parties are not
- Tenant rights for background and screening checks of co-lessees to ensure tenant safety.

5. Renting with Pets

Recommendation 5: Protection and clarity around pet ownership in rentals.

5.1 Allowing pets as standard, with clear definitions of reasonable refusal and conditions in relation to pet ownership.

5.2 No additional bond scheme specific for pets.

Discussion question: 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?

The Authority supports allowing pets as a standard, recognising the tremendous positive life impacts that pet ownership have on people and families.

Many women experiencing domestic or family violence delay leaving the situation, sleep rough on the streets or in cars, or enter the homelessness system, due to a lack of pet-friendly rental options. Not allowing pets as a standard disproportionality impacts vulnerable people within the community and those on low incomes when affordable housing options are limited.

Definitions of reasonable refusals and reasonable conditions will need to be developed and executed in a similar manner to the prescribed reasons for termination and non-renewal discussed earlier in this submission. Potentially, the type of dwelling could help in providing guidance of suitability of pet ownership and what is considered reasonable conditions.

Further considerations should be made for urban, regional and remote environments to ensure alignment with local council animal guidelines. For example, regional and remote communities may have less domesticated animals as pets to consider.

Discussion question: should a pet bond scheme be introduced in SA?

Accepting that the premise of a bond is to provide assurance to the landlord in the event of non-payment or damage, it is not necessary to introduce an additional bond component solely on the basis of pets. Damages caused by pets can be addressed through existing bond provisions. In public housing properties where pets are allowed, damages that can be reliably attributed to animals are minimal, with most animal impacts occurring in situations of squalor or animal hoarding as opposed to day-to-day responsible pet ownership.

6. Housing Standards and Retaliatory Evictions

Recommendation 6: Strengthen measures and set targets to ensure minimum standards are enabled and parties are not unreasonably impacted.

6.1 Better integration of outstanding Housing Safety Authority orders with re-letting processes.

6.2 Increasing minimum maintenance delegated spend limits for property managers.

6.3 Energy efficiency targets for existing dwellings, and considerations for ensuring residential property investment remains attractive and cost-of-living benefits for tenants are not negated.

6.4 Energy efficiency minimum standards for new constructions intended for residential rental investment.

Discussion question: 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?

The Authority is supportive of measures to ensure minimum housing standards are adhered to and retaliatory evictions prohibited.

Tenants should have a range of negotiation pathways available to them, which enable additional advocacy and protections to ensure repairs are carried out and tenants are not penalised for reasonable maintenance requests.

Currently, all residential properties must meet the minimum standards in the [Housing Improvement Regulations 2017](#). All properties currently subject to a substandard property order under the Act are listed on the [substandard property register](#). Anyone can make a complaint about the standard of any residential property in South Australia. If the property poses health and safety risks, and defects are recorded, orders may be issued to the property owner. If the property is substandard, one or more orders may be made on the property, where non-compliance may be an offence and carries a maximum penalty of \$10,000.

Properties with Housing Improvement Orders can be re-let; however, the agent/landlord is obligated to inform a new tenant that the property is subject to an Order and Rent Control (if applicable).

Consideration could be given to a plan to introduce a requirement for landlords to provide a Warrant for Fitness at each new letting, similar to that introduced in New Zealand, which would over time improve the quality of rental housing, shifting the responsibility from the tenant to identify substandard issues and risk their tenancies. Instead, the landlord would provide a checklist of standards that are considered minimum requirements for the health and safety of tenants. Noting that the introduction of such as system may require time to implement, an effective date into the future should be considered.

Requirements in the Act should guide education and promotion material that is provided to both tenants, and landlords and letting agents to ensure rights, responsibilities and escalation pathways are clearly understood e.g. the Housing Safety Authority (www.housingsafetyauthority@sa.gov.au) could be promoted as part of confirmation of tenancy commencement / receipt of bond lodgement.

Taking effect from 1 October 2022, Queensland have introduced increasing minimum limits property managers are authorised to spend for repairs, which could also enable more responsive repairs when renting through a letting agent, rather than private landlord.

Discussion question: should the RTA impose minimum energy efficiency standards in rental properties?

Minimum energy efficiency standards are beneficial for both the environment, but more importantly for the health and wellbeing of occupants. Private rental tenants are those most unable to access energy efficient solutions and therefore experience the greatest rises in energy costs.¹ Energy efficiency can positively support health and wellbeing outcomes through improved comfortability of accommodation (i.e. better insulation for climate control), and reduce cost of living through more economical and sustainable solutions that impact electricity, gas and water consumption.

Retrospectively fitting energy efficiencies into existing homes can be cost prohibitive. Taking into consideration the current typography, condition and age of residential properties across South Australia, imposition of minimum standards on existing dwellings without a clear understanding of cost, impact and capacity and capability to comply could further restrict available rental supply.

The legislation should set energy efficient targets, that are geared to not negatively disadvantage tenants or create unintended consequences, such as making investment in the residential rental market unattractive for landlords, or seeing cost transference to tenants (i.e. rent increases for new features) that negate the cost-of-living savings sought to be derived.

A first step could also be to require disclosure as part of advertising/ commencement of tenancy of energy rating/ anticipated running costs.

New constructions, particularly those to be used as residential investment properties, should comply with the minimum energy efficiency standards required in the Building Code of Australia.

Additional comment: reasonable and proportionate test

Consideration should also be given to the introduction of a reasonable and proportionate test as introduced in Victoria. This requires the tribunal to consider whether the hardship to the renter outweighs the hardship to the residential renter provider.

¹ AHURI, 23 Sep 2020, Warm, cool and energy-affordable housing policy solutions for low-income renters, <https://www.ahuri.edu.au/research/final-reports/338>

7. Safety Modifications and Minor Changes

Recommendation 7: Provide clear definitions of what is classed as reasonable and unreasonable refusal in relation to safety modifications, minor changes and NDIA endorsed disability modifications.

Discussion question: 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?

The Authority is supportive of minor, non-structural safety modifications and minor changes being permitted without undue interference. The examples listed in this question are all simple to install and remove. In some cases could even add value to the property once included.

Additionally, preventing the installation of cameras, window coverings, other key safety mechanisms, for victim-survivors of domestic and family violence puts them at considerable risk. Domestic and family violence service providers report that seeking landlord permission for safety alterations is a considerable barrier for protecting the safety of their clients.

As for other aspects of this review, a definition of 'unreasonable refusal' will need to be determined, however the Authority notes that a simple clause enforcing the removal of items at the landlord's request at the end of the tenancy should address all risk of allowing installation of the items.

Particular consideration should be given to how 'unreasonable refusal' would apply in the case of allowing disability accessibility modifications under the National Disability Insurance Scheme (NDIS). Such modifications may be essential to ensure safe use of the property; however, may result in more significant costs for both installation and removal. Factors for consideration in such requests could include the length of lease and assurances provided by the National Disability Insurance Agency (NDIA) as to the importance, durability and installation quality of the modifications.

8. Tenancy Requirements

Recommendation 8: Transparent, accessible and equitable tenancy application data and databases.

8.1 Use of standardised application forms.

8.2 Nil fee access to personal information held.

8.3 Establishment of landlord and property agent databases to provide renters with the same access to information to make informed decisions about the parties they enter into an agreement with.

Discussion question: 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?

The Authority supports mandating standardised application forms. Standardised application forms enable multiple applications from a single submission and reduces the administrative burden on the applicant. It also minimises invasive data collection. Recognising the landlord's right to identify who they are approving, proof of identification must be retained, however questions related to religion, race or gender or other questions that could be used as a basis for discrimination are not required to assess applicant suitability or capacity to pay.

Discussion question: 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?

Part 5A, Section 99G of the current Act precludes the listing of personal information in a residential tenancy database unless the tenant has been given a copy without fee. This section also includes provisions for the tenant to correct the information within a defined period. In light of this, the Authority would consider that a strengthening of the existing clauses and improved governance and enforcement may be sufficient to address this issue. Adjustments to Section 99J, which deals with fees, would also be necessary.

Additional comment: property agent and landlord databases

The Authority considers that any review of residential tenancy databases should be undertaken with a view to also enabling equivalent landlord and property management databases, to afford renters the same level of confidence that tenancy databases provide to landlords. The Authority considers that conditions for both databases should be equivalent wherever possible, to improve fairness between all parties when considering entering into a rental agreement. Creation of such tenancy management databases could also be used to identify landlords and/or property agent performance or non-compliance to regulations.

9. Domestic Violence Provisions

Recommendation 9: Support measures to strengthen financial protections for people experiencing domestic violence, with a preference for apportioning financial liability on the perpetrator of violence.

Discussion question: are further amendments required to strengthen financial protections for victims of DV who are renting?

Any amendments that further strengthen financial protections for people experiencing domestic violence are welcomed. The existing provisions that allow for removal from lease without penalty or consent is sound, and could be further strengthened if the domestic violence perpetrator is liable for any associated costs with tenancy breakdown or damage.

This would ensure that both the person experiencing domestic violence and the landlord are not unduly disadvantaged for actions outside of their control.

10. Water Billing

Recommendation 10: Payment for water supply and usage is fair and equitable.

10.1 Provision of a copy of the water bill to tenants.

10.2 Water supply to be paid by the landlord, usage by the tenant.

10.3 Landlords to pay for excess water usage where a leak has been reported but not repaired within a reasonable timeframe.

Discussion question: 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?

The Authority believes it is fair for tenants to be issued with a bill that clearly states what charges are due and how they have been calculated. This also enables tenants to dispute bills in the case of an incorrect meter read and can contribute to the earlier identification of leaks.

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

The Authority supports alignment with other jurisdictions. If the landlord were to pay the water supply fee, this would also align the private market with public housing. Under public housing policies, tenants are not charged for supply or sewerage access, only the actual usage recorded during the term of their lease. Much like council rates, water supply is considered to be paid through the rent, rather than additional charges.

Discussion question: 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?

The Authority considers that responsibility for paying excess water charges resulting from a water leak should be held by the negligent party in the given situation. Where a leak has been reported but not repaired within a reasonable timeframe, it is reasonable that the landlord bears these costs.

In public housing, tenants are expected to report dripping or seeping taps, running toilet cisterns, and other obvious leaks as soon as they become aware, however it is acknowledged that a leak may occur without the tenant's knowledge. For example, a leak from a pipe within a wall cavity may not be readily observable by the tenant and may only become apparent upon investigation of a high usage water bill, this should also be considered in terms of liability of excess water.

If a leak was known and not reported, thereby denying the landlord the opportunity to resolve the issue, it is considered reasonable for these charges to be passed onto the tenant.

11. Illegal Drug Activity

Recommendation 11: Following illegal drug activity, properties to be properly remediated and ensure meet the minimum Housing Improvement Regulations 2017 prior to re-letting.

Discussion 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?

Landlords should be required to undertake necessary remediation of the property before re-letting the property. Remediation guidance should be linked to compliance to the minimum standards as set out in the [Housing Improvement Regulations 2017](#).

Providing the property meets the minimum housing standards, the provision of evidence to prospective tenants is not deemed necessary, and any concerns about the condition of the property should be reported to the Housing Safety Authority.

12. Third Party Payments

Recommendation 12: Ensure a fair and equitable comparison of rental costs where management of properties is factored into weekly rental amounts and no additional fees for the administration of the property, such as third-party payments are charged to the tenant.

Discussion question: 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?

The weekly rental amount charged to tenants should take into account any administrative or landlord incurred costs for the tenant to occupy the property. This may include covering the cost of council rates, water supply, property agent management fees, strata fees, loan repayments etc. Tenants should not be charged additional fees for the administration of the property; this ensures a fair and equitable comparison of rental amounts for available properties on the market. Charging additional fees for the management of third-party payments is not supported.

13. Modernisation of Language

Recommendation 13: Guided by advocacy and lived experience groups, maximise access and understanding through simple, plain English easy to understand terms.

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

The Authority strongly supports the use of simple, plain-English language within the rental system. This would be particularly beneficial for those unfamiliar with the rental market, as well as people who may have literacy and/or English barriers limiting their grasp of their rights and responsibilities. Additionally, any ambiguity in relation to rights and responsibilities should also be considered, and where possible addressed.

The Authority recommends that a review of language, guided by advocacy and/or lived experience groups, be undertaken to identify opportunities to embed plain English and easy to understand terms, where possible.

14. Additional Feedback

Recommendation 14: Strengthen oversight, proactive decision-making and safeguarding through improved governance and accountability mechanisms.

- 14.1 Training to landlords on rights and responsibilities of both parties.
- 14.2 Data management that enables integration to streamline data collection and reporting.
- 14.3 Standardised satisfaction feedback mechanism that contributes to ongoing renting reform and improvement.

Qualifications of Landlords

Property agents must have minimum qualifications, which includes training. There should be consideration to extending this to landlords that do not utilise a paid letting agent. Training should include information on rights and responsibilities of both parties, as well as ensuring clarity of interpretation of key legislation, standards and regulatory guidelines. This would ensure clearer protections for all parties operating in the residential rental market.

Data management and streamlining

Throughout this submission, a substantial number of initiatives are dependent on the collection and management of tenancy management data. This may be through introducing new prescribed reasons for ending tenants, or refusing maintenance requests, or even suggestion to introduce a landlord/letting agent tenancy database, similar to what is currently in place for tenants.

In introducing these new requirements, CBS will be giving consideration to how these potential new data requirements will be captured, reported, safely secured, accessed and acted upon. However, the Authority would suggest as part of this process, it also considers and engages with partners to understand other data integration and interoperability opportunities may exist to streamline data collection, reporting and decision-making for the housing and homelessness sector.

Tenant voice

Within the social housing sector, tenants can participate in a National Social Housing Survey (NSHS). This process provides the opportunity for tenants to rate their satisfaction with their housing provider and accommodation. For the sector, it provides a valuable resource to understand what is working well, and what needs improvement, and they provide the opportunity for all states and territories to compare results with national averages against nationally agreed indicators. The results are publicly reported through the Australian Institute of Health and Welfare and the Report on Government Services.

It would be beneficial to understand the experience of tenants in the private residential rental market, to enable benchmarking, comparison and the ability for whole of system improvement and education initiatives.

The establishment of the Commissioner for Rental Tenancies in Victoria is another example of how government can listen to the first-hand experience of renters and receive independent advice to recommend changes to renting laws, programs and services to improve the renting rights, practices and tenant experiences. Other models, including regular research of lived experience, should be also be considered.

The Authority recommends exploration of avenues by which private renters can express their experience through a standardised satisfaction feedback mechanism that contributes to ongoing renting reform, identification of emerging trends and regulatory gaps and improvement. The Authority is willing to work with CBS on its development.