



Submission

Submission to the Review of the *Residential Tenancies Act 1995*

December 2022

Introduction

The Youth Affairs Council of South Australia (YACSA) is the peak body in South Australia representing young people, youth workers, as well as organisations and networks throughout the non-government youth sector. YACSA supports the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly in decision-making processes that impact them. Our policy positions are independent and not aligned with any political party or movement.

YACSA has advocated for increasing affordable housing options available to young people as a priority issue since 2001 recognising that low vacancy rates and experiences of discrimination in the private rental market have adverse effects on young peoples' ability to obtain secure and affordable housing. Access to affordable safe, suitable, and sustainable housing is vital for young peoples' social, psychological, economic, and physical wellbeing especially in the current context of recovery from COVID-19 and so YACSA welcomes the opportunity to provide comment on the review of the *Residential Tenancies Act 1995* (RTA).

In responding to the review of the RTA, YACSA would like to acknowledge and endorse the submission provided by Shelter SA as the peak body for housing.

YACSA continues to focus on the experiences of young people and advocates for young people to remain a priority on the political agenda. We note that young people, especially those who experience intersectional disadvantage, face a myriad of barriers to securing and maintaining housing. This increases the likelihood of young people living in housing that is unsafe, overcrowded, unaffordable, insecure, or below minimum standards. Longstanding issues for accessing housing have been further exacerbated by COVID-19 as young people were broadly disproportionately impacted. Increasing access to secure, affordable housing and strengthening specialist supports available for young people is a priority area of advocacy for YACSA particularly following COVID-19 related consultations with young people and the non-government youth sector.

Key points:

- Young people are key stakeholders in reforms as they are likely low-income renters.
- No cause evictions must be prohibited to better support young peoples' tenant rights.
- Practices of accepting more rent than advertised must be prohibited.
- Affordability of private rentals must be addressed as a priority.

Young people as renters

Young people are often excluded from decision-making processes that affect them. While young people are expected to assume many responsibilities in society, that same society can fail to recognise them as stakeholders simply because of their age. YACSA affirms the fundamental rights of young people especially the right to contribute to all aspects of community life, particularly decision-making processes which affect them. Young people are experts in their own lives, and it is young people that decision-makers should turn to when searching for solutions to the problems young people face.

A shortage of housing combined with rent increasing at a greater rate than income continues to significantly impact young South Australians. Declining home ownership ratesⁱ and an underrepresentation of young people as tenants in public and social housingⁱⁱ means the majority of young people source housing within the private rental marketⁱⁱⁱ. Young people, especially those experiencing intersectional disadvantage, face barriers to securing and sustaining accommodation in this market. A historical lack of support for renters to mitigate accessibility and affordability issues, especially throughout the pandemic, continues to affect young people disproportionately and puts them at greater risk of experiencing housing stress and homelessness^{iv}.

Young people are the most likely of any age cohort to rent^v and in the current context of economic scarring from past financial crises^{vi}, income declines^{vii}, the detrimental impacts of COVID-19^{viii} and recent unprecedented rent increases, young people are affected by increasing inaccessibility and unaffordability which has consequences for their physical, social, and psychological wellbeing^{ix}.

Current circumstances for young people must be addressed to mitigate the detrimental effects of increasingly living in housing that is overcrowded, below minimum standard, unaffordable, and insecure.

Rental affordability

While the discussion paper did not include consideration of ways to address declining rental affordability, YACSA believes the availability of affordable rental housing should be a government priority.

Using 30 per cent or more of gross income for housing costs puts people into housing stress^x. As of 2019-20, 55 per cent of young peoples' households were low-income rental households that were spending an average of 32 per cent of gross income on housing^{xi}. Young people in group or lone households likely spend more on housing costs than the average^{xii}. The most recent National Rental Affordability Index shows South Australia's rental affordability continues to decline with the vast majority of greater Adelaide rated as "moderately unaffordable" to "unaffordable"^{xiii}.

For students in share houses and young people working part-time in sectors like hospitality, rent in South Australia is rated at best as "moderately unaffordable" while those on income support payments like Youth Allowance are spending more than 70 per cent of their income on housing, making South Australia "extremely unaffordable"^{xiv}.

Given the disproportionate impacts of COVID-19 as well as the much slower rate of recovery experienced by young people^{xv} continuing rental availability and affordability issues must be addressed to support young people so they can continue to live, work and study in South Australia.

Tenancies

Australia remains one of the only OECD countries with jurisdictions that allow “no cause” evictions where a landlord can evict tenants without any reason^{xvi}. Currently, in South Australia a landlord can issue notice for a “no cause” eviction with 28 days’ notice at the end of a fixed-term agreement period or with 90 days’ notice during a periodic agreement. The ability to utilise “no cause” evictions directly undermine a tenant’s ability to access their rights in relation to minimum standards of housing, repairs, or as demonstrated in COVID-19, to seek temporary support during hardship^{xvii}. The protection of tenants’ rights contained within the RTA currently or post-modernisation are futile if tenants can be evicted without any grounds being provided^{xviii}.

YACSA supports the removal of “no cause” evictions from the RTA to address the process being used for discriminatory or retaliatory purposes. Young people will be better able to access their tenant rights if concerns about punitive evictions are addressed. YACSA also advocates for the modernisation of the RTA to include provisions that explicitly prohibit “no cause” evictions from taking place, and for minimum notice periods for termination and non-renewal to be extended to at least 60 days. Available within the current RTA are adequate reasons for terminating an agreement so YACSA does not support consideration of additional grounds for eviction or non-renewal of an agreement. Breach of the agreement, family requiring the property, major repairs or the sale of the property are the only suitable reasons that should be included. Additionally, implementing a mechanism to monitor vacancy of properties involved in evictions and non-renewals should be considered to prevent erroneous reasons being stated by landlords on eviction.

While YACSA supports amendment to the RTA to facilitate longer fixed term agreements, this should only be considered if the minimum notice period for eviction or non-renewal were increased to at least 60 days and tenants retain the ability to terminate agreements without responsibility for rent across the full agreement term. This will allow for longer fixed term agreements but retains required flexibility for tenants which is an important consideration for young people especially given the disproportionate economic effects they have and continue to experience.

Bonds

Affordability is a significant barrier for young people accessing the private rental market. High upfront bond costs as well as the time taken to process the release of bonds at the end of an agreement limits access to rental properties for young people. Being able to transfer bonds between rental properties when no claim is made would improve access to private rental housing for young people especially as additional bond funds would not need to be sourced when moving. YACSA believes this should be investigated by Consumer and Business Services (CBS) as a priority.

Currently, the RTA and related regulations dictate a maximum bond payable for tenancy agreements is four-weeks rent if weekly rent is \$250 or less and six-weeks rent if weekly rent is

above \$250 per week while maximum bond payable for rooming house agreements is two-weeks rent. Analysis conducted in December 2022 of rental properties available in South Australia showed that of the 1805 properties available on realestate.com.au, 67 were advertised at \$250 per week or less (less than 4 per cent). In greater metropolitan South Australia, almost 85 per cent of available rentals under \$250 per week were single rooms and 25 per cent of houses or rooms advertised requested a bond greater than the maximum amount contained in the RTA. Given the affordability issues experienced by young people seeking to rent, YACSA supports increasing the relevant limit on bonds to \$800 so more tenants can pay a bond limited to four-weeks' rent. YACSA also advocates for government-based bond supports to be expanded for young people and clarification of definitions contained within the RTA like "wear and tear" and "cleanliness" within the RTA to limit opportunities for unjustifiable claims. Additionally, to address the high level of unclaimed bonds, use of Residential Bonds Online should be mandatory and additional tenant contact details should be included when registering.

YACSA supports initiatives to improve tenant understanding of bonds through education. Expansion and extension of successful support programs like SYC's RentRight SA should be considered in consultation with young people. Lastly, YACSA refers to the submission provided by Shelter SA and agrees that the use of alternative bond products should not occur.

Discrimination within the private rental market

When accessing housing in the private rental market, young people report experiences of age-based discrimination^{xix}. Given a decision to accept an application for renting falls exclusively to a landlord or agent and as low vacancy rates increase competition for rentals, experiences of discrimination have increased during and post-COVID-19 and related lockdowns^{xx}. Studies show that agents typically assess potential tenants for "risk" during application and most likely consider a person's perceived ability to pay rent on time and willingness to care for a property with being on a low income as a key factor^{xxi}. Often it is assumed young people, regardless of their socioeconomic status, education, or employment, are on a low-income or studying, and are less likely to care for a property or pay rent on time^{xxii}. Practices by landlords and agents to remove rental applications from vulnerable people have been identified in the Australian private rental market^{xxiii}. Given young people represent a significant proportion of share housing tenants, YACSA is concerned by reports that discrimination is increasingly common in share housing arrangements due to a lack of regulation^{xxiv}.

Standardised forms

Implementing and mandating the use of a standard application form for all rental properties that explicitly prohibits questions related to personal circumstances and characteristics will reduce required paperwork and a landlord or agents' ability to discriminate against potential tenants based on age, gender identity and other personal circumstances.

YACSA support standardised rental application forms as young people regularly report experiencing discrimination within the private rental market. Additionally, as mentioned above, expanding education and supports available to young people seeking to rent through programs like SYC's Rent Right SA, would better support them as a vulnerable cohort within the private rental market.

Rent bidding

During 2020-2021, young people raised the concerning practice of rent bidding with YACSA in consultations about the impact of COVID-19. The RTA discussion paper considers prohibiting a range of practices related to rent bidding which YACSA supports, including prohibiting landlords and agents from advertising within a rent range, conducting rent auctions, or soliciting rent offers above an advertised rate. However, landlords and agents accepting rental offers at a higher than an advertised rent, more than a specified bond payment or more than two-weeks rent in advance must also be prohibited to ensure the practice of rent bidding does not occur. These requirements should be included in a legislated code of conduct applicable to all real estate agents.

Renting with pets

As well as experiencing discrimination based on age, young people with pets experience discrimination that limits their ability to secure a rental property^{xxv}. While pets are extremely common in South Australia and have a range of health and wellbeing benefits, the RTA still allows for landlords and agents to prioritise perceived risks and enforce blanket pet bans in rental properties. Power (2016) demonstrated that owning a pet increases housing stress while the RSPCA SA reported that from 2021-2022 over 600 pets (one in five of all surrendered animals) were surrendered by distressed owners desperate to find somewhere to live^{xxvi}.

YACSA supports amending the RTA so that tenant's requests to keep a pet cannot be unreasonably refused upon agreement with conditions and believes that reasonable conditions need to be specified within both the RTA and a tenancy agreement. It would also benefit tenants, including young people, for landlords and agents to be required to include specifications on acceptable pets, number of pets, indoor access availability for pets, maximum size and/or weight of pets, as well as any registration and vaccination requirements within vacancy advertisements. This would help to minimise possible matters coming before the South Australian Civil and Administrative Tribunal (SACAT).

Affordability is a key barrier experienced by young people in the private rental market and existing bond payments of up to four weeks rent provide adequate resources for landlords to address wear and tear or damage. Given this, consideration for introducing a pet bond scheme in the RTA or related regulations is not supported by YACSA especially as young people are more likely to be low-income renters and rentals are already at best moderately unaffordable for young people across South Australia.

Rooming houses

Australia-wide there is a lack of information known on the adequacy and safety of rooming houses^{xxvii} which are defined within the RTA as room-based accommodation available on a commercial basis for at least three people. Private rooming houses are typically utilised by cohorts that are experiencing intersecting vulnerabilities. This includes young people who utilise this type of housing as a cost-effective form of accommodation and students. While young people represent a significant portion of rooming tenants^{xxviii}, this type of housing creates issues and is regarded by young people as detrimental to their health and wellbeing^{xxix}. Young people, those on a low income and international students have little understanding of their tenant rights and with little choice in housing they are less likely to raise issues with landlords^{xxx}.

YACSA supports strengthening regulation of rooming houses including a requirement for rooming houses to be registered, and for owners, proprietors, and managers to be in receipt of a police check and/or a vulnerable person-related employment check to support the safety and rights of those living in rooming houses.

Minimising costs

Any costs related to housing should be minimised where possible to better support young people to continue to live, work and study in South Australia. YACSA supports prohibiting landlords, agents, and any database operators from charging tenants a fee for requests for personal information in residential tenancy databases. It is also important to improve the monitoring and enforcement of timeframes for removal or modification of information and for providing tenants any personal information included in a database when modernising the RTA.

Energy efficiency

Young people are more likely to be living in rental properties that are poorly insulated and not adequately maintained^{xxxix}. Rental properties with poor energy performance impact young people who live with health conditions as unsafe temperatures affect blood pressure as well as increase risks of cardiovascular and respiratory disease and tenants on low incomes, including most young people who rent, report rationing energy consumption to maintain affordability^{xxxix}. Despite a view that Australia is a warm country, rentals across Australia have been found to have average winter temperatures lower than 18 degrees Celsius – the WHO recommended “safe and well-balanced” indoor winter temperature. A study by Housing and Healthy Cities Research Group at the University of Adelaide found that none of the rental properties reviewed reached 18C during winter in 2019^{xxxix}. Additionally, cold temperatures in rental properties were found to have a detrimental impact on mental health^{xxxix}.

Minimum energy efficiency standards for rental properties would improve living conditions and the safety of housing as well as the health and wellbeing of tenants particular those on low incomes^{xxxix}. The suggestion that implementing standards will drive landlords to sell properties and therefore reduce rental supply is not grounded in evidence. While the Real Estate Institute of Australia suggests tenants should merely ask landlords to make adequate improvements, landlords have been shown to lack an understanding of needs and policy has previously prioritised the protection of so called “mum and dad investors”^{xxxix}. COVID-19 has also demonstrated the apprehension tenants, especially young people, feel towards requesting modifications and the reluctance of landlords and agents to grant those requests^{xxxix}.

Given the likelihood that young people are low-income tenants as well as the increasing likelihood that young people will be sourcing housing via the private rental market for their entire lifetime^{xxxix}, YACSA supports the introduction of minimum energy efficiency standards. Energy efficiency relating to temperature control should take priority and so YACSA does not support consideration of “early measures” requiring “new appliances” to meet minimum standards as the RTA would then require a more detailed definition of “appliances” and because focus should be on ensuring adequate measures for heating and cooling including adequate door and window sealing and insulation as well as other improvements.

Housing safety and accessibility

YACSA believes that all tenants in rental properties should be safe within their homes and so supports amendment to the RTA to give tenants the ability to make modifications to improve housing safety and accessibility including safety gates, latches, wall anchors for furniture, water-saving showerheads, hand-held showerheads, internal window coverings as well as other modifications to assist tenants living with a disability. A landlord or agent should be prevented from unreasonably refusing safety and accessibility modifications.

Water billing

Water billing and determination of water customers and their rights can be addressed with changes to the RTA. While the RTA needs to include the requirement for landlord and/or agents to provide any water bill requiring tenant payment within 30 days, amendment should also be made to the RTA to make tenants water customers in their own right to enable them to receive bills, apply directly for hardship, and interact with SA Water without consent from a landlord. Additionally, YACSA supports amendment to the RTA to define how excess water charges are identified, to ensure landlords hold the full obligation to pay excess charges resulting from unrepaired leaks, and to clearly include that water supply fees are to be paid by the landlord as is the case in other jurisdictions.

Illegal drug activity

As well as requiring landlords to undertake remediation before advertising any rental property known or suspected to have been affected by illicit drugs being made or regularly used on site and to provide information to potential tenants on remediation undertaken, landlords should also be required to source reputable testing and pay for any testing needed where a tenant suspects drug manufacturing or regular use has taken place within a rental property. If contamination is confirmed, landlords should hold responsibility to provide remediation including covering alternative accommodation, storage of belongings, and compensation if belongings become contaminated.

Third party payments

The RTA should be amended to require landlords and agents to provide access to one fee-free in-person rent payment method and one free online payment method to facilitate timely payment of rent and eliminate additional indirect or direct charges for young people.

Modernisation of language

YACSA endorses Shelter SA's position that changes to language within the RTA are not a priority. YACSA supports changing "tenancy agreement" to "rental agreement" and maintaining "rooming house owners" as per Shelter SA's submission.

ⁱ Australian Institute of Health & Welfare (AIHW) 2022, *Home Ownership and Housing Tenure*, viewed 9 December 2022, <https://www.aihw.gov.au/reports/australias-welfare/home-ownership-and-housing-tenure>

ⁱⁱ Muir, K, Powell, A, Flanagan, K, Stone, W, Tually, S, Faulkner, D, Hartley, C, Pawson, H 2020, *A Pathway to Where? Inquiry into Understanding and Reimagining Social Housing Pathways*, Australian Housing and Urban Research Institute (AHURI), Melbourne.

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- ⁱⁱⁱ Australian Bureau of Statistics (ABS) 2019-20, *Housing, Occupancy and Costs*, ABS, viewed 8 December 2022, <https://www.abs.gov.au/statistics/people/housing/housing-occupancy-and-costs/latest-release>.
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- ^v ABS, *Housing, Occupancy*
- ^{vi} Productivity Commission 2020, *Why Did Young People's Income Decline?*, Productivity Commission Australia, Canberra.
- ^{vii} *ibid*
- ^{viii} Li, A, Baker, E & Bentley, R 2021, 'Understanding the mental health effects of instability in the private rental sector: A longitudinal analysis of a national cohort', *Social Science & Medicine*, vol. 296, doi: 10.1016/j.socscimed.2022.114778.
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- ^{xii} *ibid*
- ^{xiii} SGS 2022, *Rental Affordability Index Key Findings: November 2022*, SGS Economics and Planning PTY LTD, Canberra, <https://www.sgsep.com.au/projects/rental-affordability-index>.
- ^{xiv} *ibid*
- ^{xv} OECD 2022, *OECD Employment Outlook 2022*, OECD, <https://www.oecd.org/coronavirus/en/data-insights/the-recovery-has-been-slower-for-young-people>
- ^{xvi} Productivity Commission 2019, *Research Paper: Vulnerable Private Renters: Evidence and Options*, Productivity Commission Australia, Canberra.
- ^{xvii} Baker, E, Bentley, R, Beer, A & Daniel, L 2020, *Renting in the Time of COVID-19: Understanding the Impacts – AHURI Final Report No 340*, AHURI, Melbourne.
- ^{xviii} Productivity Commission, *Vulnerable Private Renters*
- ^{xix} Productivity Commission, *Vulnerable Private Renters*
- ^{xx} Maalsen, S, Wolifson, P, Rogers, D, Nelson, J & Buckle, C 2021, *Understanding Discrimination Effects in Private Rental Housing – AHURI Final Report No 363*, AHURI, Melbourne.
- ^{xxi} Short P, Seelig T, Warren C, Susilawati C, Thompson A 2008, *Risk-Assessment Practices in the Private Rental Sector: Implications for Low-Income Renters - AHURI Final Report No.117*, Australian Housing and Urban Research Institute (AHURI), Melbourne.
- ^{xxii} Maalsen et al, *Understanding Discrimination Effects*
- ^{xxiii} *ibid*
- ^{xxiv} *ibid*
- ^{xxv} Power, E 2016, 'Renting With Pets: A Pathway to Housing Insecurity?', *Housing Studies*, vol. 32, no. 3, pp. 336-360, doi: 10.1080/02673037.2016.1210095.
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