

| END UNFAIR EVICTIONS

Stop tenants being evicted without a valid reason. Introduce reasonable grounds for ending a tenancy.

THE PROBLEM

Most renters are on a fixed six or twelve month lease agreement. Generally, when it ends, a renter may get a further fixed term lease or it switches to a periodic lease, one that goes from month to month. However, a landlord or agent can choose not to renew the fixed-term lease by giving just 30 days notice to vacate, and on a periodic lease, the landlord can issue a 60-day termination notice without giving a reason.

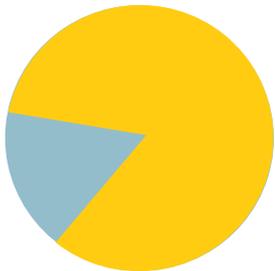
This creates an imbalance of power between landlord and tenant. It can lead to tenants fearing losing their home if they request maintenance or exercise their rights. The power for a landlord to terminate without reason means that a renter does not have long-term housing security. There is also very little opportunity to enter into longer-term agreements.

“Length of lease means I’m always uncertain of how long we can settle into a house and community. I would like the option to have a very long lease so I can feel it’s a home.”

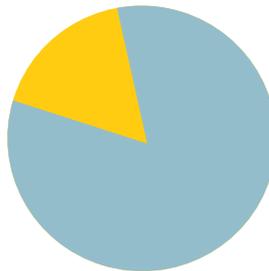
“There is no sense of permanency. You feel you should be ready to move all the time.”

THE FACTS

The impact of moving to a new house regularly is significant.

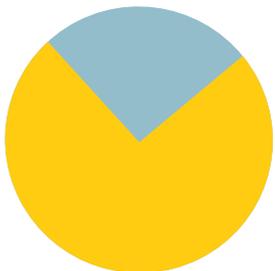


83% of Australian renters have no long-term security.^[1]

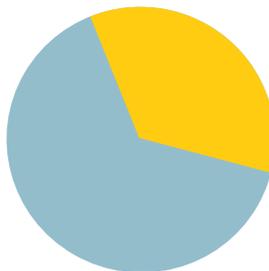


14% of renters have avoided requesting repairs or making a complaint for fear of adverse consequences such as rent increases, eviction, bad references, blacklisting and bullying.^[2]

The Disrupted survey conducted by CHOICE found that:

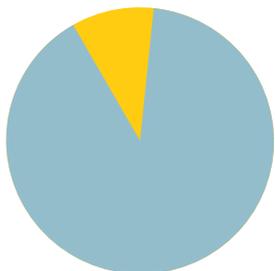


76% of respondents were stressed because of the need to move.

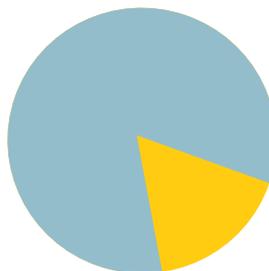


39% were concerned about the distance from friends, family and local services and sadness in having to leave their local area.

The Make Renting Fair WA Survey found that:



8% of respondents have been evicted 'without grounds'



13% did not have their lease renewed, due to a request.



[1] [2] Unsettled: Life in Australia's private rental market (2017)
Quotes: Make Renting Fair WA survey responses (2019)

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In 2018,

453

people contacted the Tenancy WA Advice Line because their lease was terminated. There were 6,436 downloads of the factsheet about the issue. ^[3]

"I would like more security. I asked the landlord for a 2 but preferably 5-year lease... He said he will only give me a one year contract and then review it at the end of the year.

I am scared that he will not renew the lease and it will be hard to find another rental in this catchment area where my children go to school... I don't want to disrupt them as they go through high school.

I also want security of long term tenure because this house is near my family and we love being close to them after having lived away from Australia for many years. Also, I want security because we are making connections with neighbours and have joined local community groups. That enriches our lives but it takes effort and time and I don't want to lose that if we have to move.

Not forgetting the practicalities - moving is expensive and finding a new rental and going through the associated paperwork is time-consuming and demoralising."

"I'm not happy with my six month lease because it means in 6 months they can put my rent up or ask me to leave."

THE SOLUTION

Renters should not face termination of their tenancies, and bear the financial and emotional cost of moving house continuously, unless there are reasonable grounds for it.

"Without grounds" termination powers must be replaced with a "just cause" termination clause to make renting fairer.

This means that a landlord can only terminate a lease when there is a good reason to do so, such as:

- The landlord or family needs to live in the property
- The landlord is undertaking major renovations which require vacant possession

- The tenant is breaching the agreement, such that it justifies termination

Landlords will still be able to terminate a tenancy where a legitimate reason exists. Just like now, if the tenant doesn't move out after the termination notice, the landlord will need to apply to Court and prove the legitimate reason. The tenant can dispute the termination and the landlord will need to prove a legitimate reason to a Court or Tribunal, just as the lessor needs to prove the correct notice was given under the current system.

This reform will prevent "churn" of tenancies and stop landlords from using "without grounds" terminations of tenants

who have sought maintenance or repairs, and for discriminatory reasons.

Reasonable grounds for termination, and effective scrutiny of termination applications by the Court or Tribunal, will make the process fairer for landlords and renters. Landlords and real estate agents who have previously used the 'without grounds' terminations, but have always had a good reason, will see no significant difference under these proposed reforms.

[3] Tenancy WA Statistic Summary (2019)

Quotes: Make Renting Fair WA survey results (2019)

#2 ALLOW REASONABLE MODIFICATIONS

Renters should be allowed to make their house a home.

THE PROBLEM

Many people want to make small changes to their rental property so that it feels more like a home, or better suits their needs, but are unable to do so.

Small changes like picture hooks, garden improvements, or window treatments can make a big difference in making a house feel like a home.

Minor modifications can also improve safety, liveability and the running cost of a home.

The ability to make reasonable modifications is of particular importance to people who live a disability and rent their home.

Being able to install a hand rail in the bathroom, a ramp to the door or tactile material to help find your way around are the sort of minor changes that should be allowed so that people with a disability can make their rental property a suitable home.

“It would be great to have the freedom to make minor modifications, especially for the children’s rooms so that they can make it their own space.”

THE FACTS

The Make Renting Fair WA survey found that 31% of respondents were unable to make minor modifications to their home.



People with a disability often live in poverty due to the disadvantages they face, and are more likely to be renters, and renters for life.^[1]

The ability to make minor modifications is of great importance.

THE SOLUTION

Renters be allowed to make reasonable modifications so their house feels like a home, not just someone else’s investment property.

A schedule of permitted modifications is proposed, that could include:

- Painting a room in a new colour
- Putting up picture hooks
- Adding a wheelchair ramp where required
- Installing rails to access the shower and toilet
- Installing floating shelves
- Adding a cat / dog door
- Planting a vegetable garden

The reform sets out standard options for the tenant and landlord to agree, for example:

- could be returned to the original condition at the end of the tenancy
- to be retained by the landlord after the tenancy
- tenant to pay the full cost
- landlord to pay a component of the cost (eg: if the house is due for a repaint soon, the lessor may cover the costs and the parties might agree the colour scheme)

These agreements will be different depending on the cost of the modification, the value added to the property, and the length of the tenancy.

Some minor modifications may be permissible with only notification to inform the landlord (e.g. picture hooks and furniture anchors), while other more significant modifications will

require permission and agreement (e.g. TV aerial, disability access or safety fixtures), which a landlord will not be able to unreasonably refuse. The landlord may also require the tenant to use a suitably qualified person to make certain modifications.

These changes will enable tenants to make a rental their home and may also add value by improving the property. However, there will need to be sufficient clarity and protection for landlords provided through the schedule of modifications and appropriate terms.

[1] https://www.ahuri.edu.au/_data/assets/pdf_file/0022/2974/AHURI_RAP_Issue_107_The-housing-careers-of-people-with-a-disability-and-carers-of-people-with-a-disability.pdf

Quote: Make Renting Fair WA survey responses (2019)



#3 CREATE MINIMUM STANDARDS

including climate appropriate housing

THE PROBLEM

The lack of minimum standards in rental properties places the health and wellbeing of renters at risk, and fear of eviction often deters tenants from seeking repairs from real estate agents and landlords.

Renters bear the cost of energy and water use without the ability to make changes to key efficiency features such as insulation, window coverings, efficient cooking, heating and cooling appliances. Renting on a low income means that you often don't have

much choice about where to rent, or can only choose between low quality options, so you don't have much market power. Minimum standards would help ensure those on low incomes still have adequate housing that meets basic contemporary standards.

Hotter summers and more extreme weather events are already common in WA, and the impact of climate change is only going to increase in coming decades. Rental housing stock is less likely to have insulation, adequate

window coverings or quality hot water systems. It is more likely to be draughty, have cheap appliances that are less efficient and more expensive to run. Rental homes are the least likely to have solar panels installed, meaning renters are left paying rising electricity costs with no option to benefit from the decreasing cost of solar. This also means that our rental housing continues to use more fossil fuels and contribute to climate change.

THE FACTS

Most products need to meet an Australian standard – your washing machine, your television, your car – but not your rental home.

50%

of WA renters said their homes were in need of repair.

49%

are concerned that making a request for repairs will mean a rent increase.

27%

fear being evicted if they ask for repairs.

[1]

965

Tenancy WA dealt with 965 enquiries relating to repairs in 2018.

The factsheet about maintenance issues was downloaded over 12,000 times. The mould factsheet was downloaded a staggering 11,801 times last year! [2]

[2]

While there are requirements under the building code and also under a range of local laws, there is no clear minimum standards implemented consistently in WA.

Those on low incomes who are renting in the bottom quarter of the market are often disproportionately affected, as there is little market pressure to keep the house repaired and well equipped.

Home energy inefficiency is a key driver of utility stress and energy poverty for low-income households. Common causes of energy inefficiency are little or no insulation; inefficient or faulty built-in heating, cooling and hot water devices; significant draughts caused by structural problems, such as broken windows and window frames, collapsing roofs, and holes in flooring; and a lack of window coverings.

The 2016 Bankwest Curtin Economics Centre Energy Poverty in Western Australia report found that rental households were dramatically less likely to be insulated than other homes in Perth.

Western Australia has minimum standards for security in rental properties, such as deadlocks and latches on windows, but it lacks minimum standards relating to all other aspects of ensuring a property is fit for habitation. WA, the ACT and NT are the only states and territories without legislated minimum standards

for rental properties. In WA, the current Act only requires that a home meets the building code (at the time it was built), local laws, and is delivered in a "reasonable state of cleanliness and reasonable state of repair given the age and character of the home". This leads to arguments about what is reasonable, and can be difficult for tenants to get a good outcome.



[1] WA data from "Disrupted: The consumer experience of renting in Australia" (2018)

[2] Tenancy WA statistics summary 2019

#3 CREATE MINIMUM STANDARDS

including climate appropriate housing

47%

of Make Renting Fair WA survey respondents said they have trouble keeping their rental property warm or cool.

Homes with good energy and water efficiency have a positive impact on reducing housing costs. In the Australian Capital Territory, homes with a 7-star rating (under the Nationwide House Energy Rating Scheme), command a measurable premium at point of sale because of the mandatory disclosure program^[3].

Queensland University of Technology Professor Adrian Barnett says Australia's poor efficiency standards and indifference to insulating against hot and cold weather is a huge public health issue^[4]. A 2015 report published in *The Lancet* journal found that 0.5

per cent of deaths in Australia can be attributed to hot weather, while 6.5 per cent of deaths are related to cold exposure. Incredibly, more people died of cold-related illnesses in Australia than in Sweden due to our lack of regard for quality heating and insulation in housing.

The 'split incentive' problem means some landlords won't pay for upgrades – such as insulation, solar panels or other energy-efficient features because the tenants are the beneficiaries. As a result, renters, especially those on low incomes, are likely to be living in housing of lower quality or standard^[5].

“Had a property with no insulation in roof space, windows or doors that didn't fit properly; the place was freezing in winter and impossible to cool in summer, even with reverse-cycle to main bedroom and sitting room – cool air and warmth just went straight out”

“We don't want to raise maintenance issues for fear they will rise rent so for most things we fix ourselves”

“Just classic issues living in an old share-house: Pests, too cold in winter, too hot in summer, real estate agent very slow to do repairs when needed”

THE SOLUTION

A new minimum standard for all housing, coupled with a schedule of minimum requirements and a mechanism for enforcing them should be introduced.

Minimum Standard Schemes are being implemented in NSW and Tasmania, and are under development in Victoria.

Regulations should clearly define what standards are to be met (e.g. adequate ventilation, adequate sanitation, universal access or adaptability) and also provide:

- a consistently defined and applied a minimum standard of housing across the sector
- disclosure on key issues including if pets have lived in the property
- clear guidance for tenants about their rights and what to do if their landlord is not meeting their obligations

- clear guidance to help lessors understand their obligations and how to meet them, with mandatory disclosure
- an independent, third party that can resolve disputes and enforce requirements (see #7 Dispute Resolution)

These basic standards can include having privacy, security, accessibility, sanitation, drainage, ventilation, water and energy supply, facilities and storage. Most landlords will have no difficulty meeting minimum standards.

Minimum standards for rental properties should include provisions for energy efficiency and climate appropriate standards.

Upgrading the rental stock in the community to meet these standards will be a significant task. We recommend that government support and incentives be provided ahead of phased in requirement for rental properties to have minimum energy efficiency and climate appropriate standards.

The benefits to lessors of meeting basic standards for rental homes include maintaining the amenity and value of the property, attracting and retaining long-term tenants who care for their home, and maintaining good relationships with tenants.

[3]<https://about.unimelb.edu.au/newsroom/news/2018/may/energy-efficient-homes-attract-premium-sale-and-rental-prices-study-finds>

[4]<https://www.domain.com.au/news/lack-of-insulation-proper-fittings-mean-australian-houses-are-too-cold-for-many-20170524-gwazax/>

[5]<https://theconversation.com/chilly-house-mouldy-rooms-heres-how-to-improve-low-income-renters-access-to-decent-housing-116749>

Quotes: Make Renting Fair WA survey responses (2019)



#4 STABILISE RENT INCREASES

A mechanism to cap unfair rent increases

THE PROBLEM

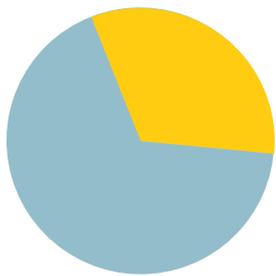
Rents in WA have been going up much faster than average wages, and the number of affordable rentals available for people on low income are declining^[1]. The rental market has been through extraordinary boom periods with very high rent increases, particularly in regional areas like Port Hedland and Karratha.

Many people rent due to necessity and some people choose to rent, however the level of concern about unexpected or exorbitant rent rises is very high across the board. Unreasonable rent increases can force tenants to leave their homes to find more affordable premises, which can be very disruptive and stressful.

The shortfall of public and community housing exacerbates this problem for those on lower incomes who are often forced to rent in the private market.

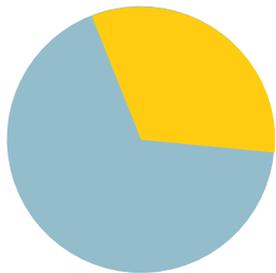
THE FACTS

Rents can be increased every six months, even if you have a current lease. If a tenant thinks the increase is unreasonable, they have to find the market data to dispute the increase.

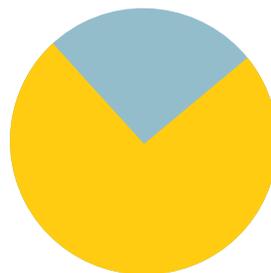


28%

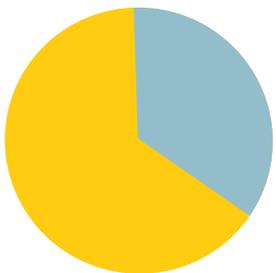
of Western Australians rent their home.^[2]



28% of those renters are currently in rental stress, paying more than 30% of their income on rent.^[3]



76% of Make Renting Fair WA survey respondents said if their rent increased by 10% they would find it “very difficult” or “difficult” in their current financial situation.



65% of respondents said they were “very concerned” or “somewhat concerned” that asking for repairs or maintenance would result in a rent increase.

“As our governments walk away from social housing, more people must fend for themselves in a market that is out of control”

- Anglicare Rental Affordability Snapshot 2019



[1] <https://thenewdaily.com.au/money/property/2019/06/03/minimum-wage-rent-cost-property/>

[2] 2016 Census

[3] http://www.shelterwa.org.au/72_000_west_australians_in_rental_stress

#4 STABILISE RENT INCREASES

A mechanism to cap unfair rent increases



“My big concern is transparency in rent increases. I am guessing that our landlord is only giving us a year’s lease because he wants to raise the rent when we take another lease for next year.

Although there are limits as to how many rent increases can occur according to the type of tenancy agreement you have, there are no limits as to the value of rent increases.

In the country where we previously lived rent increases could only occur once every two years outside metro areas. And in metro areas rent increase could happen once a year but were capped at 4% per year. In all cases tenants had to be notified 90 days in advance of the increase.

I’m nervous about what level of rent increase we might encounter at the end of this fixed term lease. If I knew there was a cap then I could plan for it but without even a ball park figure I’m not sure whether the increase will be so high that we will be forced to move ... This makes me wake up with an anxious feeling most days.”



4093

The Tenancy WA factsheet on rent increases was downloaded 4093 times in 2018.

THE SOLUTION

Renters need protection from unreasonable rent increases.

There is a range of rent control mechanisms used all over the world that should be considered for use in WA. A thorough investigation and public consultation process should be undertaken into what rent stabilisation measures will work well here in WA.

Options include:

- capping rent rises at CPI as they have done in a number of places in Europe, the UK and the USA;

- requiring the landlord to justify any rent increase above CPI;
- linking rent increases to average wage increases; or
- a combination of the above.

We seek a conversation about how rent can be made more fair and stable in WA to ensure safe secure housing for everyone.

#5 INCLUDE BOARDERS AND LODGERS

THE PROBLEM

Boarders and lodgers live in the most precarious housing, and don't have the same basic rights and protections in legislation as any other tenant would have.

THE FACTS

In WA, boarders, lodgers and their landlords currently rely on common law rights and remedies, and out dated public health legislation that still refers to inn keepers. This is costly, time-consuming and complex. Boarders are currently required to make application under the minor or general case procedure in the Magistrates Court, which is more expensive than the residential tenancies legal stream. The court process can be a barrier to justice where people are having a dispute under a boarding agreement.

Owners, housing providers and boarders all complain about uncertainty regarding what is required for compliance with the common law principles, and of the distinction between a tenant and a boarder.

Consultation with housing providers, residents and community organisations revealed substantial weaknesses and concerns with the current legislation, in particular^[1]:

- uncertainty about minimum property and room standards, including cleanliness, responsibilities for damage and maintenance
- no formal requirements for either party to respect another's peace, comfort and privacy
- disputes over house rules, where parties can't agree on what is reasonable
- no requirements to lodge a bond, potentially leaving both parties vulnerable if there is a dispute
- fear among boarders of retaliatory eviction if they enforce their rights
- no minimum requirements around the form of agreements, leading to unfair terms, or issues arising from agreements which didn't cover the basic details
- termination of agreements with very short notice. While this may be necessary in some circumstances, it can be unfair in others
- difficulties retrieving belongings after unilateral eviction

“Being a lodger is the cheapest accommodation I can somewhat afford... I feel like when you are a boarder, you have to have a job, for you to be accepted into someone's house. If you don't, then they look down at you.”



No Minimum Standards



Lack of Privacy



House Rule Disputes



No Bond Requirement



Unfair Agreements

THE SOLUTION

Boarding accommodation must be understood as a means of addressing the housing needs of people on very low incomes without access to other housing options. Boarders and lodgers need the same (improved) basic rights and protections as other tenants in WA.

New laws are required in WA that provide boarders and lodgers, as well as their landlord or housing provider, with adequate consumer protections. All other Australian jurisdictions have introduced laws for boarders by incorporating amendments into their existing Residential Tenancies Legislation,

or by way of separate legislation. It is time for WA to do the same.

The Legislation should establish minimum rights and responsibilities for both boarders, and the housing providers, and also introduce standard terms for boarding agreements.

Boarders and accommodation providers also need access to affordable, accessible and efficient means to resolve disputes.

The legislation should include different standards for different kinds of boarding accommodation, if someone

is renting out one room in their home, or for a lodging house or student accommodation halls, so that the laws are reasonable and meet the needs in this diverse sector.

MAKE

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makerentingfairwa.org.au

[1] Shelter WA & Tenancy WA joint submission to the Department of Commerce, Boarders and Lodgers C-RIS January 2017
Quotes: Make Renting Fair WA survey responses (2019)

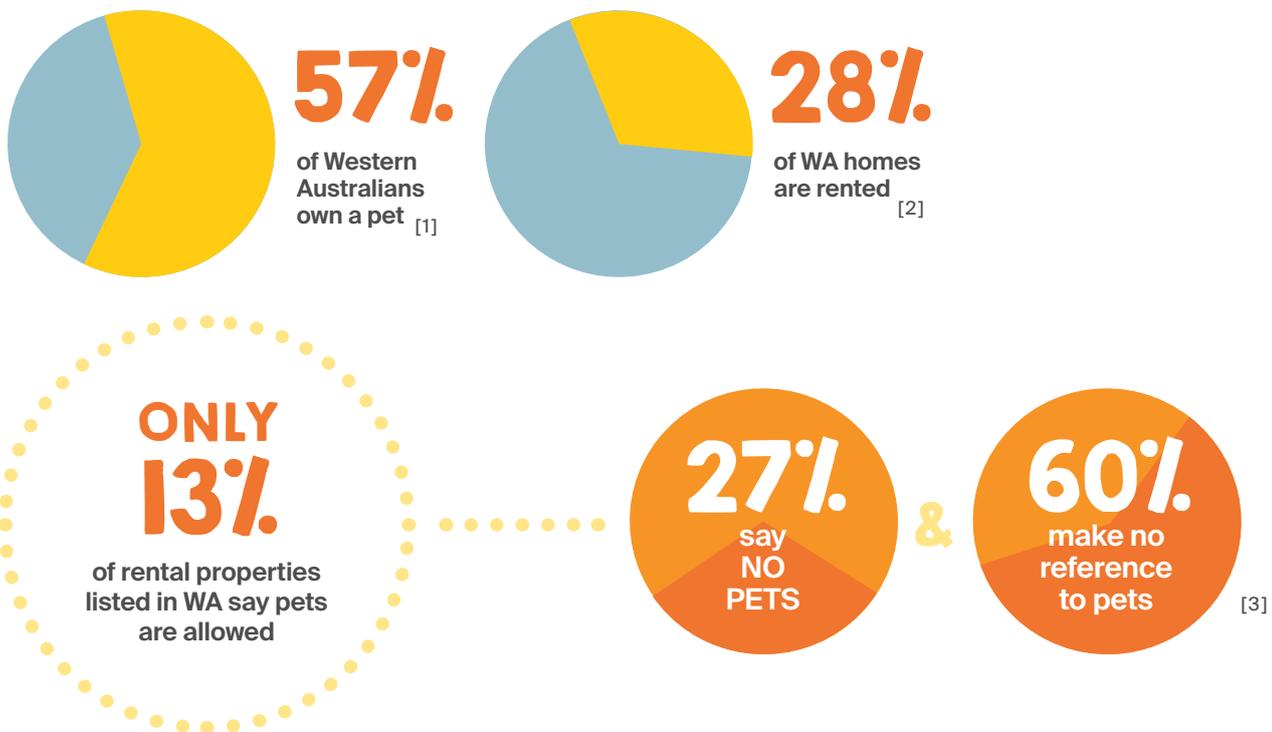
#6 ALLOW PETS

Tenants shouldn't have to choose between a family member and a home.

THE PROBLEM

Pets are an important part of the family and contribute to people's mental and physical health, and general wellbeing, however they are often not permitted in rental properties.

THE FACTS



Sadly, this often leads to people having to surrender their pet due to their housing situation – according to the RSPCA, 15% of pets surrendered are because the owners were moving and could not take their pets.^[4] It is the number one reason people surrender their beloved pet.

WA currently has a “pet bond” which is meant to help facilitate more renters to be able to have pets, but it hasn't worked with the majority of rental properties still not allowing pets.

Just like home owners, tenants have to comply with local government regulations about the safe and clean keeping of pets. While some pets may cause damage to a property,

tenants are liable for the repairs, just as they would any other damage through the bond, an additional pet bond, or a compensation order if the issue cannot be resolved by agreement.

[1] https://animalmedicinesaustralia.org.au/wp-content/uploads/2016/11/AMA_Pet-Ownership-in-Australia-2016-Report_sml.pdf

[2] https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/5?opendocument

[3] <https://www.smartcompany.com.au/industries/property/renters-missing-out-australia-pet-boom/>

[4] <https://www.abc.net.au/news/2017-10-08/victorian-tenants-allowed-pets-in-rental-properties/9027000>

#6 ALLOW PETS

Tenants shouldn't have to choose between a family member and a home.

30%

of Make Renting Fair WA survey respondents said they had been refused a rental property because of a pet (or were not permitted pets).

"I would like to be allowed pets"

"We have a pet who is supposed to stay outdoors and I received a breach notice as she was inside on inspection day (I wasn't present). Our pet, like many others, is part of the family and she causes no damage or mess ever. I'd like to see a review of this."

"I had to rehome my cat. I'm lonely without a cat or dog"

THE SOLUTION

To Make Renting Fair in WA, people who rent should also be able to keep their pets in their rental homes.

In Victoria, sweeping reforms to the state's tenancy rules in 2017 mean that every tenant in Victoria will have the right to have a pet in their rental property, so long as they obtain the landlord's written consent first (the landlord will be taken to have consented unless they apply to VCAT within 14 days). This reform is due to commence by 1 July 2020.

The law should change in WA so that tenants are allowed to have pets, unless there is a legitimate reason not to. For example, if the property owner is allergic and intends to live in the property themselves at some point pets may be refused.

But otherwise, pets should be allowed with appropriate protections for property owners through the property condition report and bond. It's not fair to deny tenants' rights that others take for granted.

#7 QUICK, FAIR AND CONSISTENT DISPUTE RESOLUTION

Introduce mediation and reported decisions for greater clarity.

THE PROBLEM

Both tenants and landlords/property managers want to have quick, fair and consistent decisions in resolving tenancy matters. Most tenancy disputes can be settled fairly by mediation using a qualified and experienced mediator. This should be the first step in good dispute resolution process for tenancy matters. However, this does not currently occur.

THE FACTS

WA is one of the only states where residential tenancy matters go to the Magistrates Court. In most other states, tenancy matters go to a tribunal, which is less formal, less time consuming and less costly than a Court.

At present, there are no reported decisions about Tenancy matters in the Magistrates Court, so it can be difficult

to know how the law is applied in WA. There is only a limited right of judicial review, so there are very few Supreme Court decisions about tenancy law. There is also no right of appeal in tenancy matters at present, even if someone is evicted to homelessness.

The Make Renting Fair WA survey results show that:

“We have been arguing back and forth for months, culminating in [the landlord] refusing to do any further maintenance or repairs. I issued a breach notice and said I would apply to the magistrates court for performance orders if not remedied. They refused... then we received the no-grounds notice of termination in the mail.”



60% of respondents had a dispute with their landlord or real estate agent



14% of respondents had ended up in court over a dispute



THE SOLUTION

To Make Renting Fair we need:

- an easily accessible dispute resolution process,
- public record of decisions regarding tenancy law, and
- a right of appeal in tenancy matters that involve evictions or significant financial claims, eg: over \$5,000.

Efficient and fair dispute resolution can be achieved through facilitated mediation between parties. If a dispute cannot be settled by mediation, it could be referred to a Tribunal for a decision.

Decisions made by the Tribunal should be reported for transparency and consistency, which allows the public, landlords, property managers and tenants to learn how the Tribunal interprets the laws to make decisions on matters. This would help advocates and lawyers to provide good advice when assisting with tenancy disputes. The State Administrative Tribunal already publishes reported decisions for their existing jurisdiction, this same logic should be applied to tenancy disputes.



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[1] https://www.department.justice.wa.gov.au/_files/Magistrates-Court-Civil-Report-2013-2018.pdf
Quotes: Make Renting Fair WA survey results (2019)

#8 A BETTER DEAL FOR PUBLIC HOUSING TENANTS

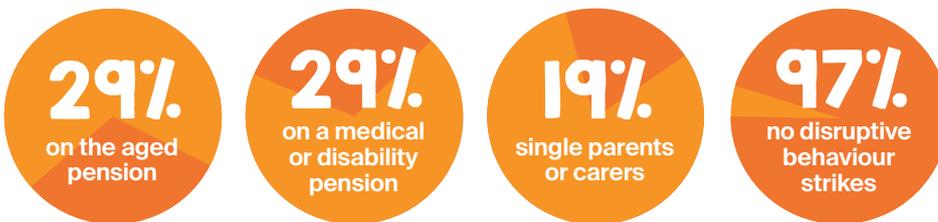
THE PROBLEM

The vast majority of public housing tenants pay their rent on time and meet all of their tenancy obligations, however the Residential Tenancies Act currently contains provisions that discriminate against public housing tenants.

Too many people feel the public housing system is unfair and they feel powerless and vulnerable when dealing with the Housing Authority.

THE FACTS

Public housing tenants:



Misconceptions about public housing tenants are common, however the reality is that 29% of public housing tenants are on the aged pension, 29% are on a disability or medical support pension, and 19% of tenants are single parents or carers. The overwhelming majority of tenants (97%) have not had a disruptive behaviour strike issued against them^[1].

An investigation by the Equal Opportunity Commission found that “public housing tenants are subject to a harsher regime than tenants in the private market”^[2]. Some people who live in public housing are among

the most disadvantaged people in our community, living on very low incomes with serious illness, the impacts of trauma and other challenges.

There are specific provisions, known as the ‘Three Strikes Policy’ to evict tenants due to disruptive behaviour that do not apply to the general public or private rental tenants.

The ‘three strikes’ provisions are carried out by the Housing Authority, who issue a ‘strike notice’ for disruptive behaviour or if they consider a tenant to be in breach of their tenancy agreement. Upon a third strike notice termination

proceedings begin through the Court. There is no appeal process for strikes in WA.

Of the 495 public housing evictions across WA for the 2015-16 financial year: 212 were due to rent arrears and water bills, 157 for poor property standards and just 71 for disruptive behaviour.^[2]

This disproportionately affects Aboriginal people, people with mental illness and severe trauma and complex needs. Often the tenant is penalised for being the victim of family violence or having a family member with serious mental illness^[4].



[1]<http://www.rethinksocialhousing.com/The-Facts>

[2]A Better Way: A report into the Department of Housing's disruptive behaviour strategy & more effective methods for dealing with tenants. WA Equal Opportunity Commission (June 2013)

[3]<https://www.abc.net.au/news/2017-04-17/volunteers-pitch-in-to-prevent-indigenous-families-being-evicted/8448104>



#8 A BETTER DEAL FOR PUBLIC HOUSING TENANTS

“Threatened with eviction due to discovery they had been undercharging rent and I could not pay it. After crying on the phone to no avail I had an advocate call and say what I said yet it was favourably resolved.”

“I was charged full market rent while during a period I wasn’t working. The staff were unhelpful, insisted on their position and decided I had to pay full market fee for 20 days that I was not working. Usually what they do is they would adjust the rent according to your income. They were not willing to deal with my complaint... I had just to keep on emailing them! No support so I paid rent I did not owe to the department!”

“Dept of Housing only allowed me 3 days to accept this one bedroom dwelling, took out a shed, air conditioner and pergola previous occupier installed. Absolutely disgusted with all the social services, many times I have been suicidal.”

THE SOLUTION

Discriminatory provisions within the Residential Tenancies Act should be removed and public housing tenants should be entitled to the same protections as other tenants.

This includes:

- Scrap the Three Strikes Policy for disruptive behaviour
- Redirect the funds for the Disruptive Behaviour Management Unit into services to provide support to address the issues tenants are facing and sustain tenancies well
- Require complaints about tenants to be substantiated and if not substantiated, the complaint should not be recorded on the tenant file
- Ensure the new THRIVE and other support programs are helping people early in their tenancies and providing support to address crisis rather than punitive compliance regimes
- Establish a objective standards for assessing property condition and undertaking inspections
- Establish minimum standards for property condition and maintenance
- Establish an accessible and affordable dispute resolution process
- Ensure that tenants have a right of appeal to strikes

The Equal Opportunity Commission recommended that the Housing Authority refocus its efforts on sustaining public housing tenancies by providing support for tenants who are vulnerable in order to enable them to maintain their tenancy, avoid homelessness and reduce the incidence of antisocial behaviour in the community. This is clearly in the interests of the whole community.



“It is essential that such support is provided to prevent individuals and families particularly involving young children, and people with mental illnesses from being evicted. Homelessness should never be used as a punitive measure to shape behaviour in a group with such well documented disadvantage”

- The Equal Opportunity Commission



#9 INCREASE ACCESS TO TENANT ADVOCACY AND INFORMATION

Make advocacy services and tenancy information available to all renters

THE PROBLEM

Every year thousands of West Australians are denied access to justice and basic information about their rights due to advocacy services being under-funded, over capacity or non-existent.

Community Legal Centres and Advocacy services are often the difference between people getting evicted or not, and they

help people learn about the rights and responsibilities of tenants to sustain secure housing. However, these services do not have the capacity to deal with every call assistance and as a result, tenants suffer if they cannot have access to legal assistance when they need it.

Many tenants are unable to resolve disputes with their landlord on their own, and the matter ends up in Court.

"I've been involved in legal action with 3 property managers. I've been successful in having order made in my favour each time... I've never been added to a database, breached any agreement or law, or had orders made against me. Every rental relationship has been unreasonable on the part of the lessor... 15+ years of fighting for my survival have led me here and I'm so exhausted."

THE FACTS

Tenant advocates work in local centres across WA helping thousands of renters every year. Tenancy WA alone provides 4500 legal advices per year. However, funding for tenant advocacy was significantly cut by 25% as of 1 January 2017, equating to a \$1 million per year cut to the program.

Specialist tenant advocacy services for First Nations people were axed altogether.

\$1 MILLION
per year cut
from tenant
advocacy
from 2017

"About 10 months into my lease there was water damage and movement from the top story. My son's bedroom roof began to collapse and had mould. There was also mould on the roof in the lounge room and dining room. This took several weeks for repair and the repairs created a lot of mess all over our furniture and belongings - the contractor was sandblasting dust everywhere. I didn't have the awareness at the time to complain to the real estate about the mess made by the repairs. Although the leaks we fixed and the roof was stable again, the mould was never treated in my son's room. We resided there for 24 months."

THE SOLUTION

Adequate and reliable funding for tenant advocacy services is desperately needed. Assistance from a tenant advocate could potentially resolve tenancy issues much earlier, and help ensure that tenants know their rights for next time. Funding for tenant advocates ultimately saves money, by reducing Court costs, and reducing homelessness.

Access to justice involves increasing the advocacy capacity of Community Legal Centres and restoring funding for Tenants Advocates.

There is also a critical need for:

- specialist public housing advocacy programs
- Aboriginal outreach workers and tenant advocates
- peer support to improve relatability in advocacy, and
- tenant education to improve access to justice

These services exist in other states and would offer significant community benefit if introduced in WA.



#10 PRIVACY

THE PROBLEM

Western Australia has one of the more frequent property inspection schedules, with inspections permitted every three months. Rent inspections can cause undue stress and pressure on tenants.

Some tenants complain that the rental inspection often feels like a judgement about them and how they live, with comments about general cleanliness and clutter rather than substantive issues relating to the condition of the property.

Inspections often include taking photos inside the home with tenants'

possessions, which can be intrusive or make tenants feel vulnerable.

Tenants are also required to disclose a wide range of personal information including bank details, which can pose a security concern especially as there are aren't privacy laws covering all real estate agents or landlords.

"I'm really sick of property inspections – they're so unnecessary and I hate that renters get treated like criminals just because we're poor!"

THE FACTS

It is standard practice to undertake property inspections in WA every three months. However in Victoria and the ACT it is a maximum of once every 6 months, which is adequate and working well.

The current advice from the WA regulator states "If photographs or video recordings are taken at the time the property inspection or other required activity by the lessor, it is recommended that all photographs or video recordings are sighted, signed and dated by all parties.

The photos taken should not depict anything beyond what is necessary. You should ask if the property manager intends to take photos and ensure personal items are put away before the visit. Photographs and/or video recordings are not a substitute for accurate written descriptions of the condition of the property."^[1]

Tenants are now required to provide extensive personal information, including employment and banking

details, when applying for a property. However, there is currently no standard procedure for storing or disposing of this information. These documents are highly sensitive and many are not currently protected under standard privacy laws and regulations.

THE SOLUTION

After the initial inspection at three months, rental inspections should be no more than twice a year, to avoid unnecessary stress and imposition on tenants.

Tenants should be able to prevent their personal possessions from being photographed if they object, in writing, on the grounds of privacy or personal security. Any photos taken should always be shared with the tenant and should only include relevant content such as maintenance issues.

Documentation and personal files associated with a rental application or tenancy should be protected by Privacy Laws and dealt with in confidence and disposed of appropriately.

There also need to be better training and regulations/guidelines for property managers to standardisation of practices to ensure fair and consistent treatment of tenants. The focus should remain on substantive property management issues rather than a general assessment of the tenant and how they live their life.

Tenants are required to provide personal information, but often their highly sensitive documents aren't protected under standard privacy laws



[1] <https://www.commerce.wa.gov.au/consumer-protection/privacy-and-entry-rights-rental-properties>
Quote: Make Renting Fair WA survey responses (2019)