

Residential Tenancies Review
Consumer and Business Services
Adelaide SA 5001

16 December 2022

Submission Review of the Residential Tenancies Act (RTA)

Submitted via email: CBSReforms@sa.gov.au

More Australians are renting and for longer. Rental reform is required to ensure that people who rent have adequate protections, access to redress, and safe, energy efficient and healthy homes.

The Consumer Policy Research Centre (CPRC) has conducted research on renters' experiences as well as extensive research on privacy and data protection that is relevant to renting. CPRC has provided a summary of our relevant research to those issues canvassed in the issues paper.

CPRC recommends that the South Australian Government:

1. provide ongoing funding for renters' advocacy and research in South Australia
2. remove no cause evictions and provide specified reasons for the termination of a lease. These should be limited and clearly set out
3. introduce greater safeguards and support for tenants to be able to exercise their rights and to seek repairs and maintenance without fear of blacklisting, evictions or rent increase
4. provide additional tailored and culturally safe support for Aboriginal and Torres Strait Islander people who rent to address barriers and discrimination they may face in the private rental market in South Australia. This could look like the Victorian Aboriginal Private Rental Assistance Program
5. increase the threshold to \$800 before more than 4 weeks of rent is required for bond
6. introduce bond portability to allow tenants to transfer bond between properties
7. prohibit the solicitation and acceptance of rent bids, the use of rent auctions and the advertisement of rents within a range
8. prohibit landlords from refusing tenants to keep pets unless due to very narrow circumstances such as strata limits or health and safety issues
9. prohibit landlords and agents from requiring a pet bond
10. adopt minimum energy efficiency standards for both the thermal performance of the property and the appliances within the property. Noting that each will require a different trigger and timeframe for implementation, however this should be established in the RTA with clear timeframes for compliance
11. prohibit agents and landlords from refusing tenants from making or requesting safety modifications
12. Implement standardised application forms and urge the Federal Attorney-General to impose economy-wide restrictions on sharing and use of personal information to third parties as part of the revision to the Privacy Act
13. prohibit the charging of fees to a person requesting a copy of their personal information listed on a residential tenancy database
14. impose that at least one or more options to facilitate payment incur no cost to renters. If third party applications are in the mix of options, where possible, those costs should not be passed on to renters.

CPRC is an independent, not-for-profit consumer research organisation. Our mission is to improve the lives and welfare of consumers by producing evidence-based research that drives policy and practice change.

CPRC would welcome the opportunity to work with the South Australian Government to provide further insights from our consumer research as the strategy is finalised.

If you have any queries about this submission or would like more information on our research, please contact Kristal Burry, Policy and Program Director at kristal.burry@cprc.org.au or Chandni Gupta, Digital Policy Director at chandni.gupta@cprc.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'ET', followed by a horizontal line.

Erin Turner
Chief Executive Officer
Consumer Policy Research Centre

In their own words: South Australian views on the experience of renting

In 2021, CPRC undertook qualitative research to understand life as a consumer today in Australia.¹ We held focus groups with people across Australia, including with young South Australian (SA) renters. We explored a range of issues with the focus groups, including housing. We asked how easy or difficult it is to find a house that is suitable to rent, how easy it is to assess the quality or safety of a house when renting and how difficult it is to resolve problems with their housing. The following quotes are from the focus group with SA renters. We use quotes from this research throughout our submission.

The struggle to find a rental

We heard about how the tight rental market in South Australia has resulted in people needing to live with family or are homeless because they can't find properties to rent when their lease ends.

"I've actually got a friend who's got a whole family, like kids, dogs, everything, and they are homeless because they couldn't get a rental property in time when their other rental ended. It's crazy, and that's happening. It's not uncommon." SA Renter 1, CPRC Focus Group

"I've just got friends... living with parents because they cannot find a rental. And they're professionals and they work and everything, so it's bad." SA Renter 2, CPRC Focus Group ²

Uncertainty leads to renter stress

One person described their stress at being notified that the property they live in would be knocked down and they had eight months to find a new home. But because of the tight rental market and the uncertainty of being responsible for paying rent for the remainder of the lease made it challenging as to when to look for a new place.

"So they've given us a lot of notice, but I'm stressed. I don't know where we're going to go at the end of this time, and I can't guarantee we will find a place, so that's concerning. Well, it's tough because, just to be practical about it, I can't really start looking now because if we did get a place, we'd have eight months of paying rent in a place we can't live in. And alternatively, you don't want to leave it too late because there's so few properties available." SA Renter 1, CPRC Focus Group ³

Difficulties assessing housing quality

When asked about how easy it is to determine quality of housing as a tenant, our focus group described how some features are easy to assess but others are harder in an inspection. They also suggested for new renters it might be harder to be able to know what to look for and to determine what is good or poor quality in housing.

"I think, as you go, you learn what to look for. But if you're new to it, no, definitely not." SA renter 5, CPRC Focus Group

"I'd say, in terms of the actual amenities of a house, I think I've got it really clear on how to check that, but there are things you can't check off the bat. For example, what kind of people are you going to be dealing with? That's something that's always a bit of a wait-and-see aspect". SA Renter 1, CPRC Focus Group

¹ CPRC, 2022, *Australian consumers in their own words*, June 2022.

² CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

³ CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

Reform is needed to address the power imbalance that people who rent face

The tenants we spoke to felt that rental laws did not balance the needs of renters and landlords and that reform is needed to help renters to ensure they have access to affordable and safe homes.

"I just feel like Australia doesn't have... It's not set up for renters, yet housing prices are becoming so expensive that we need to make an adjustment because so many of us are going to be long-term renters. I do think we need to look at something for the long-term renter, but I don't have any answers to that." SA

Renter 2, CPRC Focus Group

"You can overhaul the whole system, or nothing.... because the problem is that property prices are so high that the only people that can afford them are the people who are already in the market. There's the people who are in the market who own property, and the people who aren't and are subject to whatever happens from that other class of people. And unless the property price is changed, it's not going to get better... It's a pretty bleak outlook." SA Renter 1, CPRC Focus Group ⁴

In 2021, CPRC ranked essential sectors based on the support they provided to consumers during the COVID-19 crisis.⁵ The research found that the rental sector ranked fourth (out of six) indicating slightly worse consumer outcomes compared with the other sectors, including banking and energy. with the rental sector performed poorly when it came to fairness and transparency of rental agreements, quality of information and for helpful advice and customer service.

Our qualitative research shows the high levels of frustration that people who rent can face. SA tenants expressed views that the system is not set up to help or listen to them. This problem is exacerbated by the lack of a funded voice for tenant issues in South Australia.

South Australian tenants should have a funded advocacy and research organisation within the state. This group would provide meaningful data and insights about renters' experiences to inform legislation and policy changes.

Recommendation 1

Provide ongoing funding for renters' advocacy and research in South Australia.

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?

Should the RTA include further complimentary 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?

No cause evictions create an environment of fear where tenants can't exercise their rights

CPRC supports the proposal to remove no cause evictions by prescribing reasons for termination of a periodic or fixed term lease. The presence of no cause evictions creates uncertainty and makes tenants feel like they can't exercise their rights and ask for repairs to properties.

This is particularly concerning in a tight rental market where the risk of being evicted without security of a new property leaves tenants feeling like they 'can't rock the boat'.

⁴ CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

⁵ CPRC, 2021, *Covid-19 and Consumers: Sector Scorecard*, September 2021

In CPRC’s qualitative research we heard from tenants across the country, including in SA. This issue was also raised in our focus groups with renters in regional Queensland. We heard from this group that they had lived in unsafe accommodation, with mould and unsafe floorboards because they were concerned about retaliation through eviction. One person said they finally spoke up and they were issued a notice to evict soon after.

“What happened to us. I finally put my foot down and said, “Look, we’ve got...” And we had water pouring down our wall. And I said, “Look, I can’t live with this anymore. It’s in my kids’ room. You’ve got to come do something about it.” And we had a 30 day notice within five minutes of that being reported.” Regional Queensland Renter, Person 1, CPRC Focus Group ⁶

CPRC’s rental journey mapping project identified this as a key issue faced by many renters – with many concerned about raising issues or seeking help through Victorian Civil and Administrative Tribunal (VCAT) for fear of being blacklisted or evicted. This left tenants feeling powerless, with a lack of safety and increased anxiety. Addressing the issue of no cause evictions will help remove some of the power imbalance between tenants and landlords which is a key barrier to tenants accessing redress and other protections under the RTA.

Tenants need improved access to redress

Renters should have access to effective redress options to be able to exercise their rights. This is critical in ensuring safe and affordable housing for renters. Our research found that many people who rent don’t understand their rights or avenues for complaints, or don’t seek to make a complaint due to a barrier. This is particularly acute where a renter avoids asking for repairs of maintenance for fear of being blacklisted or evicted.

In our qualitative research we heard from people about the risks of concerns about safety and the challenges of seeking support when things go wrong. There was a perception that renting through a real estate agent might be easier than through a private rental.

“Well, as a tenant, you have certain rights in line with legislation with respect to safety in the home and faults and things that are considered a requirement, like hot water, electricity, gas, stuff like that. Outside of that, it can be quite challenging in contesting something that you might feel that it should be fixed and it’s not and the landlord may think otherwise. So yeah, it can be quite challenging, depending on what the issue is.” SA Renter 4, CPRC Focus Group

“I just had a stream of really bad rental places, and I was renting from people I found on Gumtree, so not through a real estate agent. And just really bad situations where I felt like I had no rights. One, I’m not from Adelaide, so I did this stupid thing of paying bond directly to the person, which of course, I never got a cent of it back. And then the last one, I didn’t give the bond to the person because I had already been burned, but I just got pounded by this person, after I told him I wanted to move out, for so long that it was actually like... I eventually was like, “Fine, you have to take me to the rental tribunal with all your threats. Stop contacting...” It was like six months after I had left the house, I’d get messages from him, so... I don’t know.” SA Renter 2, CPRC Focus Group

“It doesn’t come down a lot as well to whether you are renting from a private landlord or through an actual agency. I think that helps the situation a lot because they’re a lot more reasonable, but at the end of the day, it’s all down to how the landlord responds, because a lot of them could tell you just to go to the tribunal and sort it out. And by the time you actually do that, it’s probably not worth it.” SA Renter 4, CPRC Focus Group ⁷

⁶ CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

⁷ CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

CPRC worked with researchers at Swinburne University for a report commissioned by the Residential Tenancy Commission to understand barriers and discrimination faced by Aboriginal and Torres Strait Islander people who rent in Victoria. This research found that for some First Nations Victorian renters a key barrier they faced was a lack of knowledge of their rights. Some found that these rights were not clearly explained to them when signing a lease. This then led to difficulties during the lease.

"[...] a lot of the private agents are in too much of a hurry. Again, it's just that pressure to, "pay your money. [Pay your fees]. Yeah, just initial here, here and here. And then off you go." And again, it's such a crap way of doing it. Because this is where the problems come from. Our clients go, "yeah, yeah, I'm going to go out. And I'm finally on my feet, and I'm really confident I'm going to go at a private rental." And then it's just doomed to fail, because they go through an agent that cannot be bothered with them. They cannot be bothered explaining the right policy, and what certain things mean about breaking leases and terminations. And it just gets so messy. [...] Do you know what you're signing when you sign this lease, when it means this? And I've always found that when you go through with so many people, they have no idea. They've got no idea what the lease means, what certain things mean." Professional number 8, Social housing organisation⁸

In Victoria there is support for Aboriginal renters through the Aboriginal Private Rental Access Program (APRAP) including financial support to help with bond.⁹ A program like this should be considered in South Australia.

Recommendation 2

Remove no cause evictions and provide specified reasons for the termination of a lease. These should be limited and clearly set out.

Recommendation 3

Introduce greater safeguards and support for tenants to be able to exercise their rights and to seek repairs and maintenance without fear of blacklisting, evictions or rent increase.

Recommendation 4

Provide additional tailored and culturally safe support for Aboriginal and Torres Strait Islander people who rent to address barriers and discrimination they may face in the private rental market in South Australia. This could look like the Victorian Aboriginal Private Rental Assistance Program.

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?

CPRC supports the proposal to increase the threshold to \$800 before a tenant is required to pay 6 weeks of bond. Requiring more than 4 weeks of bond is a significant barrier to tenants being able to find suitable accommodation and could risk people staying in unsafe accommodation or remaining longer in a domestic and family violence situation or becoming homeless as they are unable to access enough money to pay for bond.

Bond was identified as a pain point for renters in CPRC's rental journey mapping project.¹⁰ This is particularly the case in the securing and changing of tenancy stages of a renter's journey. It can create anxiety, uncertainty, and insecurity for tenants as they worry about having enough money to cover these costs, and uncertainty about if they will get their bond back. Moving is an already stressful process without

⁸ Stone, W.M., Goodall, Z.A, Peters, A. and Veeroja, P., 2021, *Aboriginal Private Rental Access in Victoria: "Excluded from the Start"*, A Report Commissioned by the Consumer Policy Research Centre, Swinburne University of Technology, Melbourne

⁹ *Ibid* 62

¹⁰ CPRC, 2019, *The Renters Journey*, June 2019

the added stress from issues relating to accessing and receiving their bond back. This can then exacerbate other issues for renters who face barriers which creates vulnerability.¹¹

The Aboriginal Private Rental Access research found that bond was a contributing factor to the anxiety faced by First Nations Victorians engaging with the private rental market in Victoria. They also felt that getting bond back at the end of the tenancy was challenging even when the property was initially not of sufficient quality.

“I think the bond issue is a big one. So end of tenancy, ease of access to bonds, particularly in circumstances where the landlord may be taking an issue around conditions, but we know the landlord themselves has probably been in breach of their obligations though to the client. We see that a lot. And then we see the client having the capacity to outlay the bond has been an issue.” Professional 3, Lawyer¹²

An issue not raised in the consultation paper that merits consideration is portability of bond. Tenants should be able to transfer bond between properties. This limits how much tenants would be out of pocket and eases pressure on cost of living. It reduces a key barrier to tenants leaving and searching for a new home. The costs of moving or being evicted can be as high as \$4,000 (in NSW).¹³ Anything that helps reduce this cost will improve the mobility of renters and ease cost of living pressures.

Recommendation 5

Increase the threshold to \$800 before more than 4 weeks of rent is required for bond.

Recommendation 6

Introduce bond portability to allow tenants to transfer bond between properties.

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?

CPRC supports the proposal to prohibit advertising a property within a rent range, allowing real estate agents or landlords to solicit offers of higher rent or undertake a rent auction. These actions were prohibited in recent reforms to the Victorian *Residential Tenancies Act 1997* and the NSW Government just announced it would ban these practices in its state as well. These are welcome steps in helping alleviate rental affordability issues. However, they do not prohibit real estate agents or landlords from receiving offers of higher rent from prospective tenants.

We recommend the South Australian government go further and prohibit both the soliciting and receiving of offers of higher rents. This prevents tenants from becoming caught up in blind rental bidding wars that place added pressure on the unaffordability of housing.

Recommendation 7

Prohibit the solicitation and acceptance of rent bids, the use of rent auctions and the advertisement of rents within a range.

¹¹ CPRC, 2019, *The Renters Journey*, <https://cprc.org.au/the-renters-journey-forum/>

¹² Stone, W.M., Goodall, Z.A, Peters, A. and Veeroja, P., 2021, *Aboriginal Private Rental Access in Victoria: “Excluded from the Start”*, A Report Commissioned by the Consumer Policy Research Centre, Swinburne University of Technology, Melbourne. Page 64

¹³ The Guardian AU, 2022, *Renters in NSW would be able to transfer bond between properties under Labor election proposal*, accessed 13 December 2022, <https://www.theguardian.com/australia-news/2022/nov/06/renters-in-nsw-would-be-able-to-transfer-bond-between-properties-under-labor-election-proposal>

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?

Renting with pets can be difficult especially without protections to allow for pets at a rental property. This can make it hard for renters with pets to find suitable and affordable rentals. Allowing pets both improves the wellbeing of tenants and reduces the risks that pets end up at shelters because an owner is unable to keep them at their rental.¹⁴

"I've got two dogs and a cat, so we are basically like, "We will never find a rental that will take two dogs and a cat, that is affordable, in the area that we want to live in." I am very lucky, I have older parents. They have bought a piece of land and they're going to build an investment property and we're going to rent from them, because there is literally no way that we would be able to find a private rental, that we would be able to afford that would take two dogs and a cat". SA renter 3 CPRC Focus Group¹⁵

The prescribed reasons for why a landlord can refuse a pet should be limited to where strata's do not allow pets or health and safety issues.

Recommendation 8

Prohibit landlords from refusing tenants to keep pets unless due to very narrow circumstances such as strata limits or health and safety issues.

Should a pet bond scheme be introduced in SA?

CPRC does not support the introduction of a pet bond. As outlined above, bond can be a barrier for renters seeking to find new accommodation. Any unnecessary increase in bond such as a pet bond will only exacerbate these issues. Bond is for the purpose of covering any damage to a property regardless of the cause. A pet in the premise should not be considered any riskier in terms of damage or wear and tear on a property.

Recommendation 9

Prohibit landlords and agents from requiring a pet bond.

Should the RTA impose minimum energy efficiency standards in rental properties?

CPRC supports the proposal to impose a minimum energy efficiency standard for rental properties in SA. Requiring minimum energy efficiency standards for rental properties is an important cost of living measure, reducing the amount of energy renters use. It is also a critical part of decarbonising the economy and to meet state and federal commitments to net zero. Finally, improving the energy efficiency of rental properties will improve the comfort and health of renters.

Minimum energy efficiency standards in rental properties are required to meet Commonwealth commitments

All states and territories agreed to adopt a framework for minimum energy efficiency standards for rental properties as part of the Trajectory for Low Energy Buildings which recognised the importance of overcoming barriers for renters to improve energy efficiency of the homes they live in.¹⁶ Renters are often unable to make changes to improve the thermal performance of a property or to the appliances installed in the home. While there are minimum standards for new residential properties which are set to increase to 7

¹⁴ ABC, 2022, *Pet refuges overrun as dog and cat owners forced to surrender beloved animals to rent properties* 28 May 2022, accessed 14 December 2022, <https://www.abc.net.au/news/2022-05-28/wa-pet-surrenders-skyrocket-as-affordable-rentals-decline/101100094>

¹⁵ CPRC, 2022, *Australian consumers in their own words*, June 2022 – unpublished quotes

¹⁶ COAG Energy Council, 2019, *Addendum to the Trajectory for Low Energy Buildings—Existing Buildings*, November 2019

stars, existing buildings are lagging behind. Often these properties are the only affordable options for low-income tenants, leaving them to pay more for their bills.

Establishing a framework for minimum energy efficiency requirements for rental properties is an important measure to support the implementation of the National Framework for Disclosure of Residential Energy Efficiency. These are complementary measures to providing information to people at the point of sale or lease. It also encourages the improvement of the energy performance of existing properties¹⁷ and provides renters more information to inform their choices in selecting a rental.¹⁸ Changing the RTA will support SA Government's commitment to these measures.¹⁹

Action from other state governments demonstrates the value of energy efficiency action

The ACT Government has introduced a requirement for rental properties to meet a minimum energy standard for ceiling insulation. They have established a phased approach, between April 2023 and 30 November 2026, where rental providers will have nine months from when a new lease is signed for the property to comply with the standard.²⁰ The Victorian RTA requires that from 29 March 2023, rental properties must have a fixed heater in the living room and that heater must also meet energy efficiency standards.²¹ In addition the RTA requires that if an appliance, fitting or fixture provided by the rental provider uses or supplies water, electricity or gas needs to be replaced, it must be replaced with an efficient version. If it isn't the landlord cannot charge for water, electricity or gas up until those minimum standards are met."²²

Both the thermal performance and the appliance efficiency of a rental property are important to improving the comfort and health of and, reducing costs for, tenants. Minimum standards for both should be required in the legislation. However, they will require different triggers to initiate a change (i.e., once legislation has changed, it could require that when an appliance needs to be replaced during a lease, it should be replaced with a more efficient version, or before a new lease, a new version should be installed). For thermal improvements, the triggers will need to be tailored to the type of improvement. However, for simple improvements, such as draught sealing, could be introduced earlier, which is a cost-effective way to make an immediate improvement to the performance of the property.²³ The SA Government should legislate to require homes to meet an overall minimum efficiency with a detailed timeframe that outlines how and when landlords are required to meet standards to improve both thermal and appliance efficiency.

There is no evidence that tenancy regulations have a negative impact on investment in rental properties.²⁴ The Regulation Impact Statement prepared for the ACT Government found that installing insulation in rental properties had positive value for the ACT community.

Recommendation 10

Adopt minimum energy efficiency standards for both the thermal performance of the property and the appliances within the property. Noting that each will require a different trigger and timeframe for implementation, however this should be established in the RTA with clear timeframes for compliance.

¹⁷ COAG Energy Council, 2019, *Addendum to the Trajectory for Low Energy Buildings—Existing Buildings*, November 2019

¹⁸ CPRC, 2019, *The Renters Journey*, June 2019

¹⁹ Australian Government, 2021, *National Framework for Disclosure of Residential Energy Efficiency Information A collaborative project of the Commonwealth, state and territory governments*, VERSION 3 Draft Document Agreed by Energy Ministers – December 2021

²⁰ ACT Government, 2022, *Minimum energy efficiency standards for rental homes* <https://www.justice.act.gov.au/renting-and-occupancy-laws/energy-efficiency-standards-for-rentalhomes#:~:text=The%20standard%20requires%20rental%20homes,already%20meet%20the%20minimum%20standard.>

²¹ CAV, 2022, *Rental properties - minimum standards* <https://www.consumer.vic.gov.au/housing/renting/repairs-alterations-safety-and-pets/minimum-standards/minimum-standards-for-rental-properties>

²² CAV, 2021, *Efficiency standards for replacement appliances and fixtures*, <https://www.consumer.vic.gov.au/housing/renting/repairs-alterations-safety-and-pets/gas-electrical-and-water-safety-standards/efficiency-standards-for-replacement-appliances-and-fixtures>

²³ Acil Allen, 2021, *Minimum standards for residential rental properties. Regulation Impact Statement*, Report Environment, Planning and Sustainable Development Directorate

²⁴ Martin, C., Hulse, K., Ghasri, M., Ralston, L., Crommelin, L., Goodall, Z., Parkinson, S. and O'Brien Webb, E., 2022, *Regulation of residential tenancies and impacts on investment*, AHURI Final Report No. 391, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/finalreports/391>, doi: 10.18408/ahuri7124801

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?

CPRC supports amending the RTA to prevent unreasonable refusal of safety modifications and minor changes. People have the right to live in homes that are safe and free of hazards.

“People are being forced to rent places that are unsafe, that have mould... It feels like all the power is in the owners, and the renters just have so little power at the moment.” SA Renter 3, CPRC Focus Group

For example, in addition to the ACCC’s recommendations on mitigating product safety hazards²⁵, the OECD has led global safety campaigns on the risks of unsafe internal window coverings and unanchored televisions and furniture. The OECD notes that window coverings where cords are loose and accessible can cause strangulation, lead to neurological damage from oxygen deprivation, unconsciousness within seconds and death within minutes.²⁶ The risk is significantly higher for children under the age of three, but worldwide incidents have involved children aged up to nine years. For unanchored televisions and furniture, the risks include death or serious head and internal injuries such as suffocation or head and chest trauma.²⁷

The risks noted here are completely preventable and incur little cost in terms of time and money to implement. Renters should not be discouraged or prohibited from taking or requesting proactive action to ensure the home is a safe environment for residents.

Recommendation 11

Prohibit agents and landlords from refusing tenants from making or requesting safety modifications.

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?

CPRC is supportive of implementing standardised application forms with a focus to minimising the amount of personal information that can be collected by a landlord or agent on prospective tenants.

CPRC’s research continues to confirm the discomfort that consumers experience with the amount of personal information that is collected, shared and used:

- 94% are uncomfortable with how their personal information is collected and shared online.
- 88% find it unfair when companies collect more information than is necessary to deliver the product or service they are receiving.²⁸

Given the wave of data breaches that Australians have endured over the past few months, it further confirms the need for data minimisation to be prioritised by both businesses and governments where information is only collected when it is, *“...it is directly relevant and necessary.”*²⁹

Insights shared with CPRC by the Commissioner for Residential Tenancies in Victoria also highlight that across the rental market, the prevalence of third-party online application programs has led to renters raising the issue of information security provided by such third-party applications. Issues can come from both large businesses and small start-ups.

²⁵ See ACCC’s advice on toppling furniture and blind and curtain cord safety as part of its Safe Summer campaign: <https://www.productsafety.gov.au/news/safe-summer-2017>.

²⁶ OECD, 2016, Window Covering Cord Safety Campaign, <https://www.oecd.org/sti/consumer/window-covering-cord-safety-campaign.htm>.

²⁷ OECD, 2017, Global Awareness Campaign on Furniture Tip-overs, <https://www.oecd.org/sti/consumer/furniture-tipovers/global-awareness-campaign-on-furniture-tipovers.pdf>.

²⁸ CPRC, 2020, 2020 Data and Technology Consumer Survey, <https://cprc.org.au/cprc-2020-data-and-technology-consumer-survey>

²⁹ Starcevic, S., 2022, Australians fear for privacy as hackers steal personal data, MSN, <https://www.msn.com/en-my/news/national/australians-fear-for-privacy-as-hackers-steal-personal-data/ar-AA14PtAn>

Renters have raised issues with the Commissioner for Residential Tenancies in Victoria about the security of the information they share when applying for and living in a rented property. Applying for a rental property typically involves using the application process that the real estate agent or landlord chooses. People who rent, often have no option but to share extremely sensitive and personal information with online rental platforms such as identity documents and employment information. There is also some evidence that real estate agents and landlords may be sharing confidential or sensitive information with third parties with the possibility that the information will be further circulated.³⁰

There is little transparency about how this information will be used by third parties. There is also a lack of transparency of how these applications analyse specific criteria and apply algorithms in grading rental applicants, potentially embedding forms of digital ‘redlining’. Such harms, especially when experienced for essential services, can cause significant harms and increase the risk of discrimination in the application process.

Practices such as automated decision-making that are implemented without adequate safeguards and checks or information-based decision-making that is inherently biased significantly increases the risk of harm. Commissioner for Residential Tenancies in Victoria commissioned research on Aboriginal private rental access which further confirms this, noting harms such as discrimination which can lead to being excluded from rental properties. Research participants noted the tick-box to indicate if the applicant is Aboriginal and/or Torres Strait Islander can perpetuate discrimination.³¹

“I’m trying to get one of my clients to go through the private rental market, not ticking the box anymore when they do apply, because I find that they are automatically excluded. That’s what the communication coming to me is. It’s sad that it’s got to that stage for some of those clients. I’ve had clients that have applied 60 or 70 times, and are continuously getting knocked back – and that could be for a whole range of reasons behind the scenes. Primarily they’re feeling like they’re being excluded right from the start, if the indigenous box is ticked around this area sometimes. (Professional in regional yarnning circle).” Professional in regional yarnning circle³²

Government has a critical and positive role in facilitating data minimisation and ultimately reducing the risk of data-based harms. In addition to standardising application forms, restrictions should also be placed on how information via a rental application process is collected, shared and used by third-party applications.

Recommendation 12

Implement standardised application forms and urge the Federal Attorney-General to impose economy-wide restrictions on sharing and use of personal information to third parties as part of the revision to the Privacy Act.

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?

A person’s personal information should not be seen as a commodity to sell and charge back to them for access. Having access to your own personal information needs to be a simple process without cost to the person, in either time or money.

CPRC encourages SA Government to consider a mindset towards data that is similar to how it is defined in the Consumer Data Right²¹ (CDR) framework. Within CDR, there are clear parameters between data ownership and data access. It is understood that people are owners of their own personal information and businesses who collect this personal information are data holders and other intermediaries that may have access to the data are accredited data recipients. Such a model ensures that people are seen very much as

³⁰ Personal communication with the Commissioner for Residential Tenancies in Victoria on 30 March 2022.

³¹ Stone, W.M., Goodall, Z.A, Peters, A. and Veeroja, P., 2021, *Aboriginal Private Rental Access in Victoria: “Excluded from the Start”*, A Report Commissioned by the Consumer Policy Research Centre, Swinburne University of Technology, Melbourne

³² *Ibid.*

having agency over their personal information and therefore should not be charged to access what already belongs to them.

Recommendation 13

Prohibit the charging of fees to a person requesting a copy of their personal information listed on a residential tenancy database.

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?

It is unacceptable to not provide a free payment option to pay rent. Renting is an essential service and if a landlord or real estate agent is using a preferred third party to accept payments in which the consumer has no say in, the landlord or real estate agent must ensure that in addition to those payment services, there is always at least one, if not multiple ways, to pay rent without the use of paid third party applications. The methods to pay rent need to be accessible and relatively easy to use for the majority of people.

Recommendation 14

Impose that at least one or more options to facilitate payment incur no cost to renters. If third party applications are in the mix of options, where possible, those costs should not be passed on to renters.