

SUBMISSION

TO | Consumer and Business Services

**TOPIC | Consultation on standardising rental application forms -
Section 47B (1) and 47B(3) of Residential Tenancies
(Protection of Prospective Tenants) Amendment Act**

DATE | 16 August 2023

Consultation on standardising rental application forms (Section 47B (1) and 47B(3) of Residential Tenancies (Protection of Prospective Tenants) Amendment Act

Key recommendations

We welcome the Consumer and Business Services consultation on sections 47B (1) and 47B (3) into standardising rental application forms and the information landlords or agents can request from a prospective tenant. This will help ensure that prospective tenants are protected against inappropriate and unreasonable information requests that may discriminate and invade their privacy.

It is important that restrictions are set on the amount of information that a landlord or agent can request from a prospective tenant. The practice of collecting tenants' personal information extends beyond reasonable and can be at times very invasive. Given the potential for data breaches, it is vital prospective tenants are not forced to give information that may breach security and safety concerns.

Tenants Union of New South Wales conducted [a survey](#) on some of the information prospective tenants were asked during the application process. 91.7 per cent of renters in their survey had felt pressured into sharing information they felt uncomfortable about the agent or landlord accessing, such as medical records, evidence of expenditure, marital status and whether they had previously gone to the Tribunal. Similar inappropriate information requests have been reported in South Australia.

We recommend the production of a standardised application form with set questions that all landlords and agents must use during an application process for a prospective tenant, rather than solely attempting to outline all information that cannot be requested. There is the possibility for certain information to be missed and hence would expose prospective tenants to other potentially unreasonable information requests. This form would outline the details that can be collected by a landlord or agent and consequently would prevent other information from being sought from the prospective tenant.

There should be limitations on when landlords or agents can ask for identification documents. Currently, some prospective tenants are expected to provide personal information, including conducting a tenancy database check and identification documents before they can even view a rental property for open inspection.

Personal information, such as a driver's licence, should only be required for final candidates that have applied for the property. To protect the privacy of the prospective tenant, and to prevent discrimination at the application stage, certain information requests should not be included on the application form or be requested at any time during the application process. We believe this should include:

- Rental bond history, including whether they have had a claim made against a previous bond by a landlord (or agent). Whether the bond has been refunded fully or partially from the previous tenancy does not determine the reliability of the tenant
- reason for moving
- whether the prospective tenant has been evicted from a previous property. Some tenants have experienced retaliatory evictions after exerting their rights as a tenant. As a result, an eviction is not an accurate determination of the reliability of the tenant
- age

- a bank statement from a credit or bank account containing daily transactions. Evidence of income should be limited to how much the applicant earns and should not include expenditure
- source of bond payment, including whether the bond will be provided by a housing assistance program (i.e., Housing SA bond guarantee)
- marital status
- visa status
- details of social media profiles
- car registration
- medical records
- personal protected attributes outlined under equal opportunity legislation, such as ethnicity, gender identity, sexual orientation, religious belief or disability
- parental status and status as a carer as applicants with children receive discrimination at the application stage
- whether the prospective tenant has taken legal action or has had a dispute with a landlord (or agent) including whether the applicant has taken a former landlord to the Tribunal. This request is unreasonable, inappropriate and can result in discrimination against prospective tenants who exert their rights as a tenant
- whether the prospective tenant has credit card debits.

Additional comments

We remain concerned about the type of questions that landlords or agents are asking referees during the application process. It is important that if the landlord or agent does contact a workplace referee, these questions are limited in their scope.

The referee should only validate their work experience, such as confirmation that the applicant does work at the listed workplace. The workplace referee should not be asked to comment on the applicant's reliability and work performance.

We support any requirements that ensure more transparency in the application process, such as providing rental applications to prospective tenants with pre-populated information, including the rental amount. Put simply, the initial application should list the weekly rent and bond amount prior to the prospective tenant completing the form to minimise practices such as rental bidding.

Pets

Questions about pets should be prohibited at the application stage. It is important that if questions relating to any pets were included that they are an optional component in an application form.

This would help address the issue of potential discrimination against pet owners at the application stage. In a rental market that is largely unaffordable and competitive, tenants with pets are even less likely to find a rental property, which can lead to the surrender of the pet or eventual homelessness.

For women escaping family and domestic violence, this creates a potentially life-threatening situation if they remain in abusive homes when they cannot take their pets with them.

About Uniting Communities

We are an inclusive not-for-profit organisation working alongside more than 80,000 South Australians each year and have been creating positive change for South Australian communities for more than 120 years.

We advocate for systems change across diverse social justice issues to shape public and social policy that delivers better outcomes for marginalised communities.

We help those in need find the courage to move forward through enriching their lives and uniting the communities in which they live. By tackling the deep-seated challenges that affect people's lives, we are working to create systemic change and brighter futures for all South Australians. We have a bold and unceasing commitment to social justice, advocating for change and improvement in the lives of those who need it most.

As a large not-for-profit organisation, a significant portion of our clients are renters and experience firsthand the challenges experienced when renting in South Australia.

Conclusion

We welcome changes that improve security, safety and create transparency for tenants and prospective tenants. We look forward to further consultation on further changes to the *Residential Tenancies Act 1995* to improve the experience of tenants across our state.