

MAKE RENTING FAIR WA

# TENANCY

#10



[makerentingfairwa.org.au](http://makerentingfairwa.org.au)



# END UNFAIR EVICTIONS

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

## THE PROBLEM

Currently in WA a tenant **can be evicted without any reason** under what is known as “no fault” or “no grounds” evictions.<sup>1</sup> 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.

“

I have been there over 4 years and go through the same headaches every 6 months plus there is no security.

I feel there is no stability and being an age pensioner I need that.

I'd like stability – I'd love a 5 year lease to see my kids through most of their schooling years.

”



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.<sup>2</sup>

<sup>1</sup> Unsettled: Life in Australia's private rental market (2017) <sup>2</sup> Tenancy WA Statistic Summary (2019)  
Quotes: Make Renting Fair WA survey results

## 1. END UNFAIR EVICTIONS

### THE FACTS

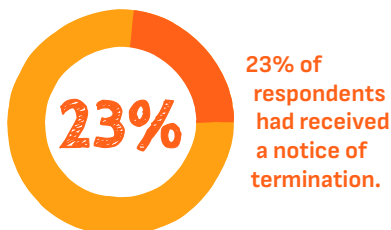
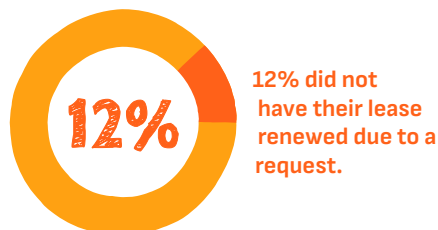
Living with the constant fear of being evicted through no fault of your own is a cruel and unnecessary feature of WA's tenancy laws.



66

I asked the landlord for a 2 but preferably 5-year lease... He said he will only give me a one year contract...

The Make Renting Fair survey over 2022-23 found that:



### 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 a 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.

<sup>3</sup> Unsettled: Life in Australia's private rental market (2017). <sup>4</sup> Make Renting Fair WA renters survey responses 2023-23.  
Quote: Make Renting Fair WA survey results



# 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 with 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.

## THE FACTS

The Make Renting Fair WA survey found that 54% of respondents were unable to make minor modifications to their home.



54% were unable to make minor modifications to their home.

“

**Urgent disability modifications were approved +6 months ago – only because I had to bring in our disability advocate who stated they were denying our basic human rights...**

**...These works have not even commenced nevermind been completed.**

”

Quote: Make Renting Fair WA survey results

## 2. ALLOW REASONABLE MODIFICATIONS



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.<sup>5</sup>

The ability to make minor modifications is of great importance.

### THE SOLUTION

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



### MAKE RENTING FAIR WIN!

In changes announced in May 2023 renters will be able to make certain minor modifications and the landlord will only be able to refuse consent on certain grounds.

**This is a huge win!**

- 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, without removing No Grounds Evictions we know that many tenants will be too scared to make these changes, for fear of eviction. There will also need to be sufficient clarity and protection for landlords provided through the schedule of modifications and appropriate terms.

<sup>5</sup> [https://www.ahuri.edu.au/\\_data/assets/pdf\\_file/0022/2974/AHURI\\_RAP\\_Issue\\_107\\_The-housing-careers-of-people-with-a-disability-and-car-ers-of-people-with-a-disability.pdf](https://www.ahuri.edu.au/_data/assets/pdf_file/0022/2974/AHURI_RAP_Issue_107_The-housing-careers-of-people-with-a-disability-and-car-ers-of-people-with-a-disability.pdf)

Quote: Make Renting Fair WA survey responses (2019)



# CREATE MINIMUM STANDARDS

For healthy, climate appropriate homes.

## 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.

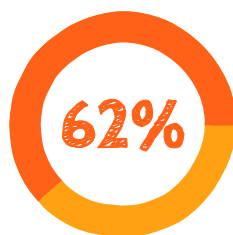
Rental homes are the least likely to have solar panels installed, meaning renters are left paying rising electricity costs with no option to benefit from the decreasing cost of solar. This also means that our rental housing continues to use more fossil fuels and contribute to climate change.

## THE FACTS

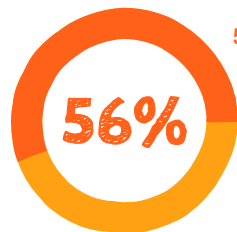
Most products need to meet an Australian standard – your washing machine, your television, your car – but not your rental home.



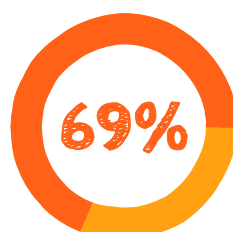
69% of WA renters said their homes were in need of repair.<sup>7</sup>



62% feared asking for repairs would mean a rent rise.<sup>8</sup>



56% of Make Renting Fair WA survey respondents said they have trouble keeping their rental property warm or cool.



69% feared making a request would mean their landlord is less likely to renew their lease.<sup>9</sup>



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 in 2019!<sup>6</sup>

<sup>6</sup> Tenancy WA statistics summary 2019

<sup>7</sup> 89 WA data from "Disrupted: The consumer experience of renting in Australia" (2018)

### 3. CREATE MINIMUM STANDARDS



In WA, there are only a handful of requirements for rental properties, such as a requirements for door locks and smoke alarms. There is a general requirement for homes to be in a 'reasonable' state of repair and cleanliness but this provides very little clarity and certainty for tenants – they cannot be sure what is and is not required for their home.

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.

WA and the NT are the only places in Australia without legislated minimum standards for rental properties. Western Australia has provisions that provide a few specific minimum standards, for example there are requirements for deadlocks and latches on windows. However WA has no

set of minimum standards that clearly state the minimum requirements for a rental property.

In WA, the current Act only requires that a home meets the building code (at the time it was built), 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.

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.<sup>10</sup>

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.<sup>11</sup> A 2015 report published in The Lancet journal found 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 energy efficient appliances 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.<sup>12</sup>

66

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

<sup>10</sup> <https://about.unimelb.edu.au/newsroom/news/2018/may/energy-efficient-homes-attract-premium-sale-andrental-prices-study-finds>

<sup>11</sup> <https://www.domain.com.au/news/lack-of-insulation-proper-fittings-mean-australian-houses-are-too-coldfor-many-20170524-gwazax/>

<sup>12</sup> <https://theconversation.com/chilly-house-mouldy-rooms-heres-how-to-improve-low-income-renters-access-to-decent-housing-116749>

Quote: Make Renting Fair WA survey results



## THE SOLUTION

Legislating minimum standards for rental properties that are clear, easy to understand and cover all the essential features a home should have, including amenities, safety, thermal comfort and energy efficiency.

Regulations should clearly define what standards are to be met (e.g. ventilation, privacy, minimum amenities in kitchen, bathroom etc., insulation, thermal comfort) 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, sanitation, drainage, ventilation, water and energy supply, and amenities (e.g. requirement for a stovetop, functioning toilet etc). 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 requirements for rental properties to have minimum energy and water efficiency, thermal comfort 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.

“

**One of the cooking hobs has not worked for the past year. Multiple requests to have it fixed have been ignored. Fly screens are old and need replacing, this hasn't been done either.**

**The air conditioners are mouldy and don't work effectively as they have never been serviced since we have been in the property (two do not turn on at all). I requested they be serviced and was told by the agent that its not included in my rental agreement.**

”

Quotes: Make Renting Fair WA survey responses



# #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<sup>13</sup>. 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.

“

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.

Real estate agencies could help landlords be fairer by explaining the median weekly wage of people in the town, before people buy investment properties, so landlords can understand what a typical tenant may be able to afford...

”



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

<sup>13</sup> <https://thenewdaily.com.au/money/property/2019/06/03/minimum-wage-rent-cost-property/>  
Quote: Make Renting Fair WA survey results

## 4. STABILISE RENT INCREASES

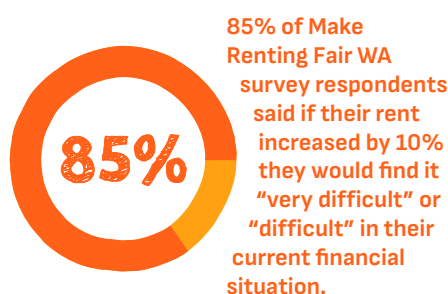
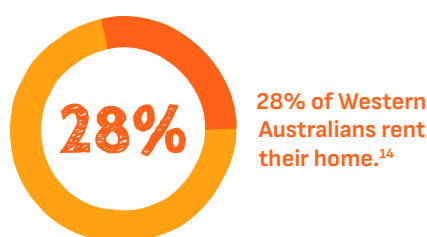
“

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

### 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.



“

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.

### 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.

<sup>14</sup> ABS Table builder pro, 2021 census data.

<sup>15</sup> [http://www.shelterwa.org.au/72\\_000\\_west\\_australians\\_in\\_rental\\_stress](http://www.shelterwa.org.au/72_000_west_australians_in_rental_stress)

Quote: Make Renting Fair WA survey results

# #5 BOARDERS AND LODGERS, AND STUDENTS

## 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.

In WA, boarders, lodgers and their landlords currently rely on common law rights and remedies, and outdated public health legislation that still refers to inn keepers.

For students, there is currently a blanket exemption for student accommodation (where it's provided by an educational institution or on a not-for-profit basis) under the Residential Tenancies Act. This is

obviously not fair or satisfactory, and leaves hundreds thousands of WA students vulnerable to exploitation, insecurity, and even violations of privacy. Students need to be protected from sudden or arbitrary eviction notices, random, invasive room searches without notice, old fashioned codes of conduct, inadequate or non-existent complaints or resolution processes, and lack of minimum standards leading to in some cases mouldy rooms in complete disrepair.

Another consideration is that students in on-campus accommodation really lack

alternatives if they do run into trouble, considering the situation in the private market and given that international or interstate students are more likely to be taking up that accommodation, there is an argument to be made that they are particularly vulnerable to exploitation/will have a harder time pushing back against their rights not being respected. 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.

“

**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.**

”

Quote: Make Renting Fair WA survey results

### THE FACTS

#### No Minimum Standards

Consultation with housing providers, residents and community organisations revealed substantial weaknesses and concerns with the current legislation, in particular<sup>16</sup>:

- 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

#### Lack of Privacy

#### House Rule Disputes

#### No Bond Requirement

#### Unfair Agreements

- 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

Including student accommodation as part of the proposed regulation of boarders and lodgers accommodation is also crucial, and students and student guilds must be consulted as part of the consultation for these changes.

### 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.

Including student accommodation as part of the proposed regulation of boarders and lodgers accommodation is also crucial, and students and student guilds must be consulted as part of the consultation for these changes.

# #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.

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.<sup>17</sup> 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.

“

**I find that people that share their homes with their pets make that house their home. Happier tenants. Longer leases and renewals.**

**Please do something about the pet situation, dogs are being surrendered and shelters are full because they have no where to live. Please help end the surrendering of pets. Make renting with pets possible.**

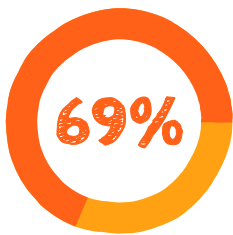
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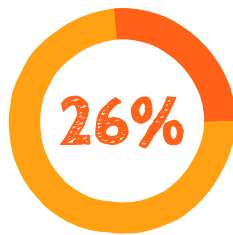
of Make Renting Fair WA survey respondents said they had been refused a rental property because of a pet (or were not permitted pets).

<sup>17</sup> <https://www.smartcompany.com.au/industries/property/renters-missing-out-australia-pet-boom/>  
Quotes: Make Renting Fair WA survey responses

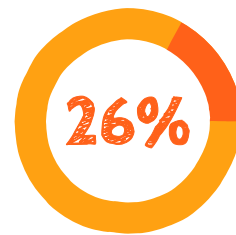
### THE FACTS



69% of Western Australians own a pet.<sup>18</sup>



26% of WA homes are rented.<sup>19</sup>



26% of rental properties listed in WA say pets are allowed.

### 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.

“

I was recently looking for rentals that were pet friendly and they were few and far between. So many applications I filled out had a box that said “Would you consider rehoming your pet to secure this rental?”, which I find a disgusting and stressful thing to ask.

The threat of homelessness from not being able to find a rental is bad enough, but to suggest giving up your family member to secure a basic human right is despicable. WA needs stronger rental laws to support tenants and their pets.

”

<sup>18</sup> [https://animalmedicinesaustralia.org.au/wp-content/uploads/2016/11/AMA\\_Pet-Ownership-in-Australia-2016-Report\\_sml.pdf](https://animalmedicinesaustralia.org.au/wp-content/uploads/2016/11/AMA_Pet-Ownership-in-Australia-2016-Report_sml.pdf).

<sup>19</sup> [https://quickstats.censusdata.abs.gov.au/census\\_services/getproduct/census/2016/quickstat/5?opendocument](https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/5?opendocument).

Quote: Make Renting Fair WA survey results



# QUICK, FAIR & 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.

All residential tenancy matters go to the Magistrates Court for resolution. Most tenants are unfamiliar with the Court processes and find the Court experience daunting, confusing and stressful. There is an inherent unequal bargaining power between tenants and landlords which is amplified in a Court setting.

“

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.

”



In 2017-18 there were **14,927 residential tenancy applications** lodged in the Magistrates Court of Western Australia.<sup>20</sup>

In 2018, there were **4795 downloads** of the Tenancy WA fact sheet that deals with applying to the magistrates court.

<sup>20</sup> <https://www.department.justice.wa.gov.au/files/Magistrates-Court-Civil-Report-2013-2018.pdf>  
Quotes: Make Renting Fair WA survey responses



### 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.

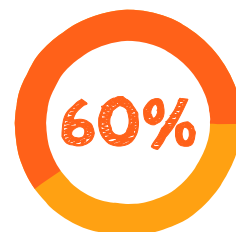
At present, there are no reported decisions about Tenancy matters in the Magistrates Court, so it can

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:



14% had to take landlord/agent to court to get bond back or resolve other issue.



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



### MAKE RENTING FAIR WIN

In May 2023, the WA Government announced the first phase of proposed reforms to the Residential Tenancies Act. The Government proposes that most bond and pet disputes are referable to the Consumer Protection, instead of the Magistrates Court.

Instead of all parties having to incur the time and expense of going to the Magistrates Court, the Commissioner for Consumer Protection will now determine disputes between tenants and landlords. Additionally, the bond disposal process will be easier by allowing landlords and tenants to separately apply for the release of the bond.

### THE SOLUTION

To Make Renting Fair we need:

- an easily accessible dispute resolution process,
- public record of decisions regarding tenancy law.

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.



# A BETTER DEAL FOR 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 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.

Much of our public housing stock is also ageing and inefficient to run, meaning it is expensive to heat and cool, and requires major upgrades and refurbishment.

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.<sup>21</sup>

An investigation by the Equal Opportunity Commission found that “public housing tenants are subject to a harsher regime than tenants in the private market”.<sup>22</sup> 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.<sup>22</sup>

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.<sup>23</sup>



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

<sup>21</sup> <http://www.rethinksocialhousing.com/The-Facts>

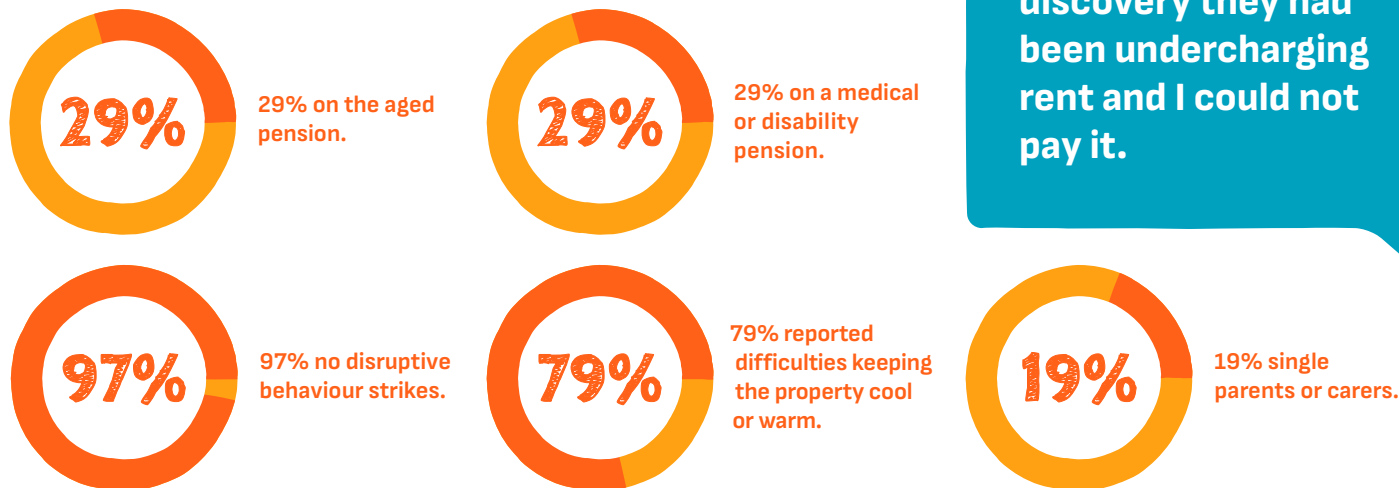
<sup>22</sup> A Better Way: A report into the Department of Housing’s disruptive behaviour strategy & more effective methods for dealing with tenants. WA Equal Opportunity Commission (June 2013)

<sup>23</sup> <https://www.abc.net.au/news/2017-04-17/volunteers-pitch-in-to-prevent-indigenous-families-beingevicted/8448104>

## 8. A BETTER DEAL FOR PUBLIC HOUSING TENANTS

### THE FACTS

Public housing tenants:



### 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:

- Adopt a target of zero children evicted to homelessness from public housing and report publicly on this
- End the use of fixed term tenancies and without grounds terminations in public housing
- 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 support programs for public housing tenants meets tenants needs to prevent evictions. Recognising the underlying social issues that many public housing tenants face, the support program needs to be able to deliver long term, holistic case management where required
- We recommend a new specialist Aboriginal program to address disproportionate eviction rates, as well as an overhaul of THRIVE. New support programs should be co-designed and include Aboriginal Community Controlled Organisations in the design and delivery
- Establish 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 Ensure that tenants have a right of appeal to strikes
- Amend the “Applicants with an Adverse History” policy, so that these applicants are approved for housing, and prioritised for support programs while on the waitlist and from the commencement of their new tenancy

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.

Quote: Make Renting Fair WA survey responses



# 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.

Tenants in regional and remote areas face particular challenges accessing help. For example, there is only funding for one tenant

advocate for Geraldton and all communities across the whole Midwest-Gascoyne – an area twice the size of Britain!

It is essential these services are funded to provide education and advice around proposed new laws for tenants so that people can exercise their rights including to make modifications or to have pets in their home.

“

**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...**

**...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.**

”

Quotes: Make Renting Fair WA survey results

### THE FACTS

Tenant advocates work in local centres across WA helping thousands of renters every year. Housing was the top issue for clients of community legal centres in 2021-22, with roughly a quarter of legal advice services and almost half

of duty lawyer services provided by community legal centres were for housing related matters.

Although there was a welcome increase to funding for tenant advocacy services in 2023-24,

it is still nowhere near enough to meet need and it's not sustainable, with current funding due to end in 2025. And there is no funding at all for specialist services for First Nations people.

### 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 preventing homelessness. Access to justice involves increasing the advocacy

capacity of Community Legal Centres and ensuring sustainable funding for tenant advocates 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.

“

**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.**

”

# #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 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!**

**I have caught the property manager photographing inside my underwear drawer while I was home alone with him.**

**I have found the person doing the rent inspections feels they have the right to open anything, draws, cupboards etc during the inspection.**

”



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

Quotes: Make Renting Fair WA survey results

### 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

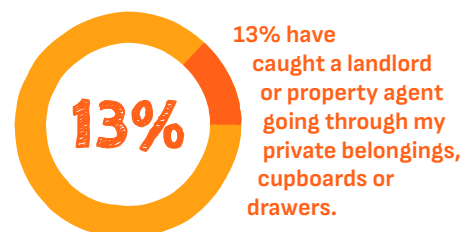
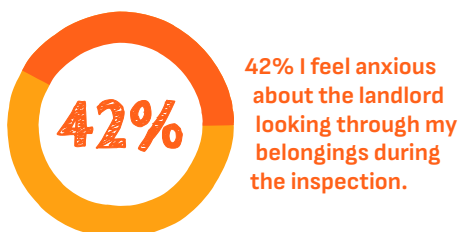
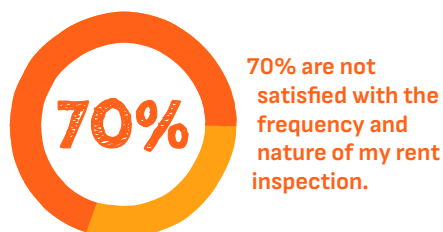
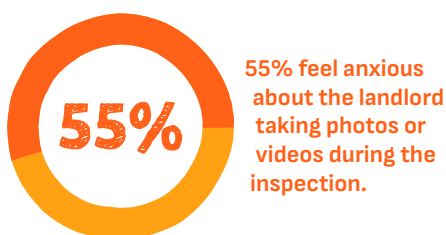
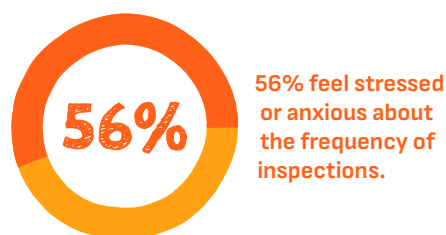
not depict anything beyond what is necessary. You should ask if the property manager intends to take photos and ensure personal items are put away before the visit. Photographs and/or video recordings are not a substitute for accurate written descriptions of the condition of the property.”<sup>24</sup>

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.

“

After four years of living in the same rental and always treating it as my own I feel the level of inspections is excessive.



### 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.

<sup>24</sup> <https://www.commerce.wa.gov.au/consumer-protection/privacy-and-entry-rights-rental-properties>  
Quote: Make Renting Fair WA survey responses