

**Submission
No 13**

RESIDENTIAL TENANCIES AMENDMENT (RENTAL FAIRNESS) BILL 2023

Organisation: NSW Council of Social Service

Date Received: 31 May 2023

Submission to the Legislative
Assembly Select Committee on
the Residential Tenancies
Amendment (Rental Fairness)
Bill 2023

NCOSS Submission

31 May 2023

About NCOSS

The NSW Council of Social Service (NCOSS) is the peak body for the social service sector in NSW. With over 400 members and a wider network of approximately 4,000 non-government organisations, government and other entities and individuals who share our values, we work towards the elimination of poverty and disadvantage in NSW.

When rates of poverty and inequality are low, everyone in NSW benefits. With 80 years of knowledge and experience informing our vision, NCOSS is uniquely placed to bring together civil society to work with government and business to ensure communities in NSW are strong for everyone.

As the peak body for the social service sector in NSW, we support the sector to deliver innovative services that grow and develop as needs and circumstances evolve.

Published May 2023.

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Introduction

NCOSS, a member of the NSW Government's Expert Housing Advisory Panel, welcomes the opportunity to make a submission to the Select Committee on the Residential Tenancies Amendment (Rental Fairness) Bill 2023 (the **Rental Fairness Bill**).

The housing affordability crisis in NSW is a clear market failure. It is the result of a combination of complex factors, including historic underinvestment in social housing by the NSW and Australian Governments. It has been decades in the making, and building our way out of it will take many years.

Skyrocketing rental prices are one of the fallouts from this market failure. While this has had widespread impacts, those who are living in poverty or on low incomes – and already experiencing high levels of housing stress – are the ones who are bearing the brunt the hardest.

NCOSS' 2023 *Mapping Economic Disadvantage in NSW*¹ research shows the grim reality of poverty in NSW and how private renters are amongst the hardest hit. While the overall rate of poverty remains reasonably stable since 2016, population growth means that there are almost 1 million people living below the poverty line². Across the State, of all housing tenures, the private rental market has the largest number of people experiencing poverty – at over 412,000 or 20.3%. In Greater Sydney, the rate increased by 10% since 2016, with significant intensification in the South West and Inner South West. In some parts of Greater Sydney, the rate of poverty for people living in private rentals has reached almost 50%, while other areas across NSW are over 50% (i.e., more than half of private renters in that area live below the poverty line)³.

The groups most likely to live in a low-income household are also among the most disadvantaged. Our research showed that First Nations people are twice as likely to live in a low-income household than non-Indigenous people, while culturally and linguistically diverse communities are more than twice as likely to live in a low-income household and people with disability are almost three times more likely.

This demonstrates the urgent need for action to tackle the housing crisis in NSW and provide support to those people who are doing it toughest.

¹ <https://www.ncoss.org.au/policy-advocacy/policy-research-publications/mapping-economic-disadvantage-in-nsw/>. This research was prepared by the University of Canberra's National Centre for Social and Economic Modelling based on 2021 Census and ABS data

² Defined as 50% of median income, removing housing costs and adjusting for size and composition of household

³ For example – *Guildford-South Granville*: 48.7%; *Regents Park*: 49.7%; *Far West*: 57.6%; *Inverell Surrounds-East*: 51.7%.

The Rental Fairness Bill

Overview

NCOSS and our member organisations seek to ensure that every individual and family in NSW has access to secure, appropriate and affordable housing – a human right.

NCOSS commends the NSW Government for its swift action to provide greater support to people in the private rental market. In particular, NCOSS strongly supports the amendments in relation to a rental bond roll-over scheme; this is a sensible measure that will reduce the stress and financial strain on renters who need to move home.

However, NCOSS is concerned by the amendments that will require the notification of higher offers to applicants. NCOSS fears that this change risks creating ‘rental auctions’, which will amplify rental price increases and put affordable housing even further out of reach. We believe this proposal may have unintended consequences that would make the situation worse. We respond to the Committee’s Terms of Reference below.

Responses to the Terms of Reference

The Select Committee has been established to consider:

- (a) *Whether clause 22B of the Bill will provide sufficient transparency for applicants to enable them to make informed decisions if bids higher than the advertised rental price are received during the application process to secure a residential tenancy.*
- (b) *The impact of clause 22B on improving disclosure and transparency requirements compared to the current rental application process.*
- (c) *How clause 22B might be expected to influence applicants’ transactional behaviour.*
- (d) *Whether there are any additional measures to improve transparency for applicants during the rental application process or better protect applicants without formalising an auction process for rental properties.*

With particular reference to Term of Reference (c), NCOSS is concerned that clause 22B will create a ‘rental auction’. It will influence applicants’ transactional behaviour by putting them in a position where they feel pressured to offer rental amounts that are beyond their means in an attempt to secure housing. This will not only further fuel rental increases in an already highly constrained and competitive market, but risks putting people in further housing stress and at higher risk of poverty and homelessness. NCOSS is particularly concerned by how this change may particularly affect those in the community who already face higher levels of discrimination, exploitation, and insecurity.

NCOSS’ primary recommendation is that the draft Bill be amended to prohibit rental bidding altogether and, instead, put in place a fair and administratively simple process where:

1. A fixed rental price must be advertised at the time a property is put up for rent. This advertised rate would act as a ceiling.
2. Landlords, real estate agents, other third parties and potential tenants must not offer, solicit, or accept a higher rental rate than the originally advertised rate.

NCOSS believes that this approach would create a fairer and more transparent rental system that would benefit both tenants and landlords. Rather than wasting time inspecting premises that they were they were never truly in the running for, prospective tenants would know exactly how much they will have to pay. Owners would be encouraged to set realistic and reasonable rents that reflect the market value and condition of their properties, and this would also avoid the compliance burden that the proposed regulated rental auction would cause.

Allowing rental bidding to continue risks increasing disenfranchisement for tenants, especially those who are the most vulnerable or disadvantaged, and who are being crunched between spiralling rates in the private market and the significant shortfall in the availability of social housing.

Should the Government not support this approach, NCOSS recommends that 22B be removed from the Bill, and the Government should instead empower the soon-to-be-appointed Rental Commissioner to review the laws, regulations and practices regarding rental bidding so that they can recommend appropriate reforms. This would include:

1. consultation with stakeholders, including tenant advocates and industry representatives
2. reviewing the existing evidence base, and
3. where appropriate, collecting new data and evidence to inform the recommendations.

Recommendation

The Select Committee should either:

- 1) recommend changes to the Rental Fairness Bill to prohibit rental bidding entirely, OR
- 2) recommend the removal of section 22B from the Bill, so that the Rental Commissioner can perform further review and consultation to identify changes to legislation and regulation that balance the need for urgent action with the risk of unintended consequences.