

**Submission  
No 21**

## **RESIDENTIAL TENANCIES AMENDMENT (RENTAL FAIRNESS) BILL 2023**

**Organisation:** Ageing on the Edge NSW Forum

**Date Received:** 1 June 2023



## **Submission to the *Residential Tenancies Amendment (Rental Fairness) Bill 2023***

### **About us**

The NSW Ageing on the Edge Forum is a coalition of about 150 organisational supporters and members. The members of the Forum are advocates for change, including older people with lived experience of homelessness, service providers, peak advocacy bodies and private sector organisations, working together to address housing and homelessness related issues of older people.

The Forum was originally convened as a reference group for Housing for the Aged Action Group's (HAAG) Ageing on the Edge project, which launched a report in 2017, *The Older I Get the Scariest It Becomes – Older People at Risk of Homelessness in NSW*.<sup>1</sup> Based on widespread consultation with older people and the community sector, the Ageing on the Edge Forum has since developed policy recommendations that are critical to addressing the needs of older people facing housing stress and homelessness in NSW.

We thank the Legislative Assembly Select Committee for the opportunity to provide input into the consultation process on the *Residential Tenancies Amendment (Rental Fairness) Bill 2023* (the Bill).

### **Key recommendations**

- 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.
- Landlords, real estate agents and potential tenants must not offer, solicit, or accept a higher rental rate than the originally advertised rate.
- Fund a specialist older person's housing information and support service that comprises both an early intervention and crisis response, similar to the HAAG Home at Last model in Victoria.

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<sup>1</sup> J. Fiedler and D. Faulkner, *The older I get the scariest it becomes: Older people at risk of homelessness in New South Wales, 2017*, accessible at: <https://www.older tenants.org.au/sites/default/files/older-i-get-scarier-it-becomes291117.pdf>

## Context

Older renters over 55, especially those reliant on social security payments for rent are discriminated against and are often deemed a financial risk.<sup>2</sup> During the 2021-2022 financial year, nearly 60% older people that sought housing support from HAAG's Home at Last Service in Victoria were in private rental sector or other rental accommodation. This demonstrates the level of rental stress and financial pressure on older people who are in the private rental sector.

According to our 2021 census analysis, in NSW, there were close to 120,000 renters over 55 in the lowest two income quintiles (earning less than \$38,000 a year or between \$38,000-\$78,000 a year).<sup>3</sup> It is likely that a large proportion of these people are living under severe rental stress or at risk of homelessness.

In the last 12 months, the average rents rose by 11 % nationally and concerning in Sydney, it rose by 24.3%.<sup>4</sup> Only a very small proportion of the rental properties in NSW are affordable to older people on low incomes in NSW. According to Anglicare Rental Affordability Snapshot, in NSW, there were no properties that were affordable to single people relying on JobSeeker payment and only 0.4% of the properties were affordable for a single person receiving Age Pension.<sup>5</sup> We are concerned that the proposed Bill would exacerbate the rental crisis and disproportionately impact on people experiencing financial hardship, especially older people on low-incomes.

## Implications of the Bill on older renters

We understand that the proposed Bill has two key rental reforms: banning secret rent bidding and supporting the implementation of a portable bonds scheme. In our view, the latter is a valuable and largely uncomplicated reform.

We echo the concerns raised by NSW Ageing on the Edge member organisations including Shelter NSW and Tenants Union NSW in relation to the proposed measures to ban secret rent bidding. This measure may produce a set of unintended consequences that may undermine the well-intentioned goals of increasing a sense of fairness and reducing stress within the rental application process.

The Bill stipulates that a landlord or a landlord's agent must give applicants for residential premises advice about an offer, and the amount of the offer, for the premises if the amount of the offer is higher than the advertised amount.<sup>6</sup> As highlighted above, older people are already struggling to find affordable housing in an extremely competitive housing market. They are unlikely to be able to bid higher on properties on a limited income.

The digitalisation of a large proportion of rental application and tenancy management processes are also likely to exclude many older people due to limited digital literacy and/or access to or costs associated with internet and devices. Even in instances where older people are able to afford

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<sup>2</sup> S. Maalsen, et al, Understanding discrimination effects in private rental housing, AHURI Final Report No. 363, 2021, accessible at: <https://www.ahuri.edu.au/research/final-reports/>

<sup>3</sup> Housing for the Aged Action Group, Decades of Housing Decline in NSW, 2023, accessible at: [https://www.olderrenters.org.au/sites/default/files/decades\\_of\\_decline\\_-\\_nsw\\_census\\_data\\_insights.pdf](https://www.olderrenters.org.au/sites/default/files/decades_of_decline_-_nsw_census_data_insights.pdf)

<sup>4</sup> SQM Research, Weekly Rents: National, 2023, accessible at: <https://sqmresearch.com.au/weekly-rents.php?t=1&national=1>

<sup>5</sup> Anglicare Australia, Rental Affordability Snapshot, 2023, accessible at: <https://www.anglicare.asn.au/wp-content/uploads/2023/04/Rental-Affordability-Snapshot-National-Report.pdf>

<sup>6</sup> Residential Tenancies Amendment (Rental Fairness) Bill 2023, Schedule 1, s22A (c), accessible at: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18415>

additional rent, they may miss communications via email and other online platforms or they may disengage from the application process entirely, which may create inequitable rental outcomes for older people.

We believe there are a number of ways in which the government could address the negative outcomes. These might be focused on restricting the possibility of multiple rounds of offers (of a higher rental price) and counter offers. We support recommendations being made by the Tenants' Union of NSW.

We recommend the current draft legislation to remove the proposed amendment in its entirety and replace it with a fair and administratively simple process whereby:

- 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.
- Landlords, real estate agents and potential tenants must not offer, solicit, or accept a higher rental rate than the originally advertised rate.

We believe that this policy would create a fairer and more transparent rental system that would benefit both tenants and landlords and reducing stress for all involved. In addition to these recommendations, there may need be additional requirements to ensure landlords/real estate agents are required to advertise properties at comparable/realistic rental prices and processes to prevent them from readvertising the properties at a higher rate within a short period of time.

While not an active consideration of the Inquiry we urge that some consideration be given to how any new law and regulations, once implemented, will be practically experienced by any vulnerable cohort trying to compete on the uneven playing field that is currently (and always), the private rental sector. It is for this reason that we have recommended funding a service similar to the Home at Last Model in Victoria and Queensland.

An Ernst & Young Cost Benefit Analysis found that the Home at Last service has a benefit cost ratio of 2.3. This means that every dollar spent on the Home at Last housing information and support service generates at least \$2.30 in societal value.<sup>7</sup>

The service supports people over 55 to navigate the housing system and provide them with 'one-stop-shop' type assistance to prevent them from falling through the cracks. One of the key components of the service is early intervention and prevention which aims to divert people over 55 from the crisis services and assist them to access safe, affordable and sustainable housing options. Many of these issues were canvassed in the Homelessness amongst older people aged over 55 in NSW inquiry by the Social Issues Committee last year.<sup>8</sup> Adopting a Home at Last type service was among the 40 recommendations of the committee.

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<sup>7</sup> Housing for the Aged Action Group, 2021, Home at Last Economic Appraisal, Ernst & Young accessible at: [https://www.older tenants.org.au/sites/default/files/home\\_at\\_last\\_economic\\_appraisal\\_-\\_final\\_report\\_-\\_november\\_2021.pdf](https://www.older tenants.org.au/sites/default/files/home_at_last_economic_appraisal_-_final_report_-_november_2021.pdf)

<sup>8</sup> NSW Parliament, the Homelessness amongst older people aged over 55 in NSW, Social Issues Committee, accessible at: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2865#undefined>

This submission is endorsed by following NSW Ageing on the Edge Forum members:

