

‘A better renting future – Safety, security and certainty’

Consultation Regulatory Impact Statement

Review of the *Residential Tenancies and Rooming Accommodation Act 2008*

Submission

24 December 2019

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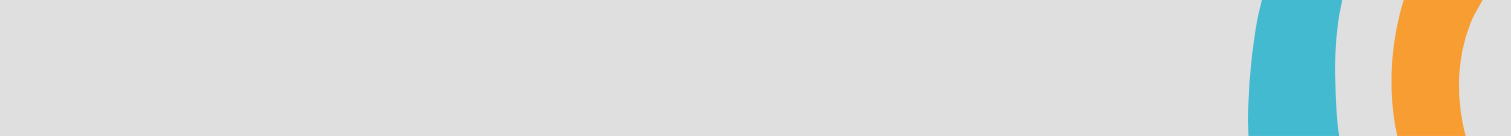
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Reference: F19/1314 – D19/26109



Background

The Queensland Family and Child Commission (QFCC) is pleased to provide a submission to ‘*A better renting future – Safety, security and certainty*’, a Consultation Regulatory Impact Statement (CRIS) prepared by the Department of Housing and Public Works (the Department) into proposed reforms to the *Residential Tenancies and Rooming Accommodation Act 2008* (the RTRA Act).

The QFCC was established on 1 July 2014 by the *Family and Child Commission Act 2014* (the FCC Act). Under the FCC Act, the QFCC was established:

- to promote the safety, wellbeing and best interests of children and young people
- to promote and advocate the responsibility of families and communities to protect and care for children and young people
- to improve the child protection system.¹

The QFCC works collaboratively to influence change so Queensland is a safe place where children, young people and their families thrive in supportive communities. A rental market that fairly balances the rights of tenants, particularly vulnerable families and children who are renting, with those of owners is an important part of building a safer Queensland.

The CRIS covers a number of areas which are significant for the wellbeing of children and families. The QFCC has also identified a peripheral issue which may represent important avenues for reform in addition to the matters covered by the CRIS.

¹ *Family and Child Commission Act 2014* (Qld), s. 4.

Ending tenancies fairly

Recommendation

The QFCC recommends that:

- property owners and managers should be prohibited from ending tenancy agreements without grounds (option 5).

The QFCC supports the Department's recommendations to remove the ability of property owners to end a tenancy without grounds and provide additional grounds for tenants and owners to end a tenancy. This will protect vulnerable tenants such as young people, survivors of domestic and family violence (DFV), single parents and disadvantaged families from being forced out of their homes without cause. It will also help to prevent retaliatory evictions.

With more Queenslanders renting than ever before, the QFCC supports the principle that rental properties are first and foremost homes to be lived in. For a vulnerable tenant, certainty for the length of tenancy which they desire is important for personal and family identity, security and a sense of belonging.²

While there are cases where a property owner has a legitimate right to ask a tenant to leave, evictions without cause or with obscure justification inevitably bring hardship and disruption to the lives of vulnerable tenants and their children. Families with children typically want enhanced rental security so, for example, they can stay close to their chosen school.³ This means that the impact on children's lives from rental disruption is especially significant.

Minimum housing standards

Recommendation

The QFCC recommends that:

- minimum housing standards are made an integral part of the RTRA Act, with other associated regulation to improve the rights and protections of tenants (option 5)
- community education is made a priority to make sure tenants are aware of their rights around minimum housing standards.

The QFCC supports measures to protect vulnerable tenants from unforeseen problems in their homes. Additionally, greater confidence in what is required from tenants, owners and managers in terms of the specifics of maintaining a property would benefit tenants, simply by reducing the levels of stress and uncertainty in interactions where there exists an inherent power imbalance.

² Productivity Commission 2019, *Vulnerable Private Renters: Evidence and Options*, Australian Government Productivity Commission, viewed 18 December 2019, <<https://www.pc.gov.au/research/completed/renters/private-renters.pdf>>, p. 76.

³ Productivity Commission 2019, p. 76.



The initial Renting in Queensland consultation survey established that 17 per cent of tenants took issue with the quality and safety of their dwelling.⁴ The health and safety of tenants and their children is of great concern to the QFCC, especially when those tenants represent vulnerable cohorts. In particular, the QFCC is aware of tenants in remote communities where cultural barriers may reduce awareness of the rights of tenants to enforce the minimum standards. The QFCC recommends community education campaigns are made a priority to maximise the awareness of tenants to their rights around minimum housing standards, in order to promote the wellbeing of disadvantaged tenants and their children.

Domestic and family violence protections for tenants

Recommendation

The QFCC recommends that:

- access to provisions under DFV protections should not be denied in the absence of supporting documentation, and evidence provided should be returned to the tenant
- where a child of a tenant experiences DFV, the tenant should be afforded the same protections as if they experienced DFV themselves
- where a co-tenant has experienced DFV and is vacating a property, their privacy must be respected. The privacy of all DFV survivors should be respected in any case with regards to the recording of information
- provisions are made to support the most vulnerable societal groups, including women who have experienced DFV.

The QFCC supports reforms to improve outcomes for tenants experiencing DFV, and their children, in line with the *Supporting Families, Changing Futures* program⁵ and *Domestic and Family Violence Prevention Strategy 2016-2020*.⁶ The QFCC supports the recommendations to allow tenants experiencing DFV to end a tenancy at short notice and more easily access rental bonds.

In particular, the QFCC emphasises the importance to children and parents affected by DFV to end tenancies quickly. The CRIS makes clear DFV is the main reason women and children leave their homes.⁷ Furthermore, children who live with DFV are at greater risk of abuse themselves. They can suffer serious impacts on their ability to learn and develop positive relationships with others and may be at heightened risk of alcohol misuse, drug dependency and criminal behaviour later in life.⁸ Provisions to help tenants and children experiencing DFV leave (or to remain if safe to do so) are critical to recovery and the first step to rebuilding lives.

The QFCC is concerned tenants affected by DFV may not be in a position to provide proof of evidence. The consultation paper reports 90 per cent of people experiencing DFV never contact police.⁹ This is especially true for

⁴ Department of Housing and Public Works 2019, *A better renting future — Safety, security and certainty*, Queensland Government Department of Housing and Public Works, viewed 17 December 2019, <<https://www.yoursayhpw.engagementhq.com/49014/documents/120362>>, p. 81.

⁵ Department of Child Safety, Youth and Women 2014, *Supporting Families, Changing Futures*, viewed 18 December 2019, <<https://www.csyw.qld.gov.au/campaign/supporting-families>>.

⁶ State of Queensland 2016, *Domestic and Family Violence Prevention Strategy 2016–2026*, viewed 18 December 2019, <<https://www.csyw.qld.gov.au/resources/campaign/end-violence/dfv-prevention-strategy.pdf>>.

⁷ Department of Housing and Public Works 2019, p. 113.

⁸ State of Queensland 2016, p. 5.

⁹ Department of Housing and Public Works 2019, p. 123.

people who have a history of negative experiences from authorities such as police or who may fear consequences of going to the police.

The extent to which tenants experiencing DFV have access to services to provide other types of evidence may vary. The privacy and safety of DFV survivors would be better served by having the provision of evidence, and the recording of DFV as the reason for termination, be desirable but optional.

Where a tenant has experienced DFV and the co-tenant is not the DFV perpetrator, is it not appropriate to disclose to the co-tenant the reason for the notice of intention to leave. The QFCC recommends this be made explicit in the wording of the provisions to protect the privacy of DFV survivors.

More generally, the QFCC is aware that the combination of gender discrimination 'with factors such as disability, English language fluency, ethnicity, physical location, sexuality, Aboriginal and Torres Strait Islander identity, and migration experience' increases vulnerability to the risks and effects of violence.¹⁰ Anecdotal evidence exists of common discrimination against survivors of DFV, especially women, who find it difficult to enter the rental market when their experiences are seen as a liability by some managers and property owners.¹¹

The impact of tenancy reforms on these vulnerable families need to be considered and prioritised. Additional support such as information in more languages and availability of specialty support officers will help women and children from these groups be and feel safe.

Minor modifications

Recommendation

The QFCC recommends:

- tenants be empowered to make minor modifications without the consent of the property owner (largely option 3)
- the provisions specifically include modifications for the safety and wellbeing of children within the definition of 'health, safety, accessibility and security modifications', and thereby not require a minimum notice period to be given
- inclusion of provisions to remove or modify water features which present a hazard to children
- at the end of a lease, require tenants to return the property to its original condition only if the owner requests them to.

The QFCC made recommendations in 2018 in response to the initial Renting in Queensland survey, stating tenants should be able to make changes for the safety of children, to prevent death and serious injuries of the type which have been recorded in the QFCC's child death register. Provisions to allow modifications for health and safety form an important part of the Department's recommended reforms.

¹⁰ National Council to Reduce Violence against Women and their Children 2009, *The Cost of Violence against Women and their Children*, viewed 18 December 2019, <https://www.dss.gov.au/sites/default/files/documents/05_2012/vawc_economic_report.pdf>, p. 69.

¹¹ Australian Housing and Urban Research Institute 2019, *Housing outcomes after domestic and family violence*, viewed 20 December 2019, <https://www.ahuri.edu.au/__data/assets/pdf_file/0026/37619/AHURI-Final-Report-311-Housing-outcomes-after-domestic-and-family-violence.pdf>, pp. 57-58.



The QFCC supports the recommendation empowering tenants to make minor modifications without seeking the consent of the property owner or manager. Between 1 January 2004 and 30 November 2018, the child death register recorded five deaths as a result of falling furniture and televisions in Queensland.¹² In order to make sure modifications for the safety and wellbeing of children in the residence can be done quickly and with minimal risk to children, the QFCC recommends they should not require a minimum notice period.

Water is a particularly hazardous aspect of domestic life for young children. Through the *Seconds Count* campaign, the QFCC emphasised data showing that between 2004 and 2016, 60 children under five years of age drowned in Queensland swimming pools.¹³ If a parent finds themselves in a rental property where a hazardous water feature exists, such as a pond, they must be empowered to take action to protect their children from harm. The QFCC recommends this be specifically provided for in the legislation.

The QFCC disagrees with the balance proposed in the Department's recommendation in option 3 to allow tenants to make minor modifications while requiring them to return the property to its original state when they vacate. Requiring tenants to reverse minor modifications before they vacate is onerous on tenants experiencing vulnerability, such as a single parent vacating at short notice due to DFV.

Families with children, and disadvantaged families may be investing all their time and disposable income into searching for a new home and moving. These are difficult and trying periods for vulnerable tenants. The QFCC proposes a compromise, requiring the tenant reverse their own modifications only if specifically required to do so in writing by the property owner or manager.

Renting with pets

Recommendation

The QFCC recommends that:

- the keeping of pets in rental properties should be facilitated and supported by the RTRA Act as per option 4.

Pets are an important part of the lives of children, and families with children can be some of the most vulnerable in the rental market. Children have expressed to the QFCC how pets are an essential component of their happiness.¹⁴ They can be a reassuring constant when other aspects of a child's life are in flux.

The QFCC supports the recommended reforms to generally permit tenants to keep pets in their rental properties unless there is a reasonable justification to prohibit this.

"I need my dogs. I like them because they don't judge me"

– South West Queensland, secondary student

¹² Queensland Family and Child Commission 2018, *Renting in Queensland Survey Response*, submission by C Vardon, Queensland Family and Child Commission, Brisbane.

¹³ Queensland Family and Child Commission 2018, *Water Safety*, viewed 19 December 2019, <<https://www.qfcc.qld.gov.au/kids/preventing-child-injury-death/water-safety>>.

¹⁴ Queensland Family and Child Commission 2018, *This Place I Call Home: The views of children and young people growing up in Queensland*, viewed 19 December 2019, <https://www.qfcc.qld.gov.au/sites/default/files/This-place-i-call-home-report_FULL.pdf>, p. 23.

General recommendation

Recommendation

The QFCC recommends:

- education of children with regards to renting and associated life skills be a central part of any reform package, including through improvements to information available online.

Life skills

Children and young people have expressed to the QFCC via the *Growing Up in Queensland* project¹⁵ that they value highly education on life skills. This includes education on how to rent a home. Participants expressed frustration with inaccessible information available online for young tenants. The QFCC recommends continuing improvement to education be made to assist tenants, especially young people and young families.

“It was so confusing. There was so much to take in that I got very overwhelmed very quickly.”

– South East Queensland, aged 19-21, on renting information available online

¹⁵ Queensland Family and Child Commission 2018, *This Place I Call Home: The views of children and young people growing up in Queensland*.