

Submission: Renting in Queensland

QDN

QUEENSLANDERS WITH DISABILITY NETWORK
NOTHING ABOUT US WITHOUT US

Submitted To: Department of Housing and Public Works

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About Queenslanders with Disability Network (QDN)

Queenslanders with Disability Network (QDN) is an organisation of, for, and with people with disability. The organisation's motto is "nothing about us without us". QDN operates a state-wide network of over 2000 members and supporters who provide information, feedback and views from a consumer perspective to inform disability policy and disability advocacy. This submission is informed by the lived experience of our members and supporters, and our allies including Tenants Queensland and Make Renting Fair Queensland.

Introduction

QDN welcomes the opportunity to make a submission to the Department of Housing and Public Works on the proposed Renting in Queensland reforms outlined in the Consultation Regulatory Impact Statement Stage One.

QDN welcomes and gives in principle support to the Queensland Government's package of tenancy reforms. QDN believes these reforms will go a long way to allowing renting Queensland households to make their house their home and balancing the scales for renters and landlords. QDN believes there are benefits to all Queensland renters, particularly vulnerable renters and people with disability.

QDN believes the core of the package provides for greater security and safety for renters. Approximately 36% of Queenslanders currently rent, with numbers on the rise. In 2016 there were over 72,000 Queenslanders living in rental properties with a disability, this number has increased dramatically from around 53,000 in 2011¹. QDN is a member of the Make Renting Fair in Queensland Alliance and concurs with their view that rental prices are set by market forces outside of these proposed tenancy changes and are not likely to change as a result.

QDN's response to the review is informed by Queenslanders with disability including QDN's 2,000 strong membership and support base and QDN's 20 Local Support Peer Groups across the state. QDN's 20 local support groups across the state work to inform, connect and lead people with disability. QDN's state-wide Peer Group Convenors have discussed in detail Queensland's proposed rental tenancy reforms. Convenors agree the reforms are the most significant thing to happen in rental housing in the last 20 plus years and commend the Government on their direction. QDN has 20 peer support groups across the state with up to 1,000 members and supporters. Overwhelmingly, Convenors endorsed the proposed reforms which will lead to increased certainty and security for tenants.

QDN believes the reforms will assist people who are renting in the following ways:

- Property owners will not be able to end a tenancy (lease) without giving the renter a valid reason;
- Minimum housing standards for rental properties will be introduced, which will ensure properties are safe, secure and functional;
- There will be improved tenancy law protection for people experiencing domestic or family violence, to stay in or leave a rental property safely;

¹ Australian Bureau of Statistics, 2016 Census of Population and Housing, from table builder, available at

<https://auth.censusdata.abs.gov.au/webapi/jsf/dataCatalogueExplorer.xhtml>

- Renting with a pet will be easier. If a tenant requests to keep a pet, a property owner cannot unreasonably refuse;
- Renters would be able to make minor modifications to a property without property owner prior consent to ensure their home is accessible, healthy, safe and secure;
- The dollar amount a tenant can authorise for emergency repairs will double.

In preparing a submission to this review QDN sought the views of members who rent their homes and have experience in undertaking minor modifications, renting with pets, domestic and family violence and ending a tenancy before the end of a lease.

Ending Tenancies Fairly

QDN believes stable tenancies benefit everyone. Tenants benefit emotionally and financially, communities thrive, and landlords have stable long-term tenancies which benefit their investments. Ending tenancies fairly will mean that every eviction has a reason set out in the law. QDN believes this will protect vulnerable people, including people with disability, from being evicted for asking for repairs or permission to undertake minor modifications. QDN supports proposals around requiring valid reasons for ending tenancies and providing greater fairness for tenants and landlords to end tenancies. Many QDN members have been impacted by *Without Grounds Evictions* and having nowhere to go as a result. The Consultation Regulatory Impact Statement acknowledges: “16 per cent of Australian tenants with a disability have received a notice to leave without grounds”².

Both tenants and owners benefit from certainty about how and when a tenancy will end. It is important to ensure that tenants and owners can end tenancies fairly. QDN believes the package supports stable and long-term tenancies for renters meeting their obligations, supporting both renters and lessors.

QDN requires further clarification on the impacts of option five for people with disability who are renting government owned rental accommodation and Department of Housing and Public Works rental accommodation:

- Option 5. Require property owners and managers to only end tenancy agreements for approved reasons
 - 5.12 Queensland Government owned rental accommodation is required for a public or statutory purpose (and)
 - 5.13 The Department of Housing and Public Works requires the rental accommodation to manage public housing as a scarce resource

QDN is aware the Department of Housing and Public Works has a policy regarding properties with 5+ bedrooms where they could move people on who were under-occupying a property. QDN is concerned that the Consultation Regulatory Impact Statement does not mention the number of bedrooms and it could potentially apply to any property and was therefore too broad and needs further clarification. QDN

² Choice (National Shelter & The National Association of Tenant Organisations), *Disrupted: The consumer experience of renting in Australia*, available at <https://tenantsqld.org.au/wp-content/uploads/2018/12/Disrupted-2018-Report-by-CHOICE-National-Shelter-and-NATO-1.pdf>, 2018, pp.19

believes the Department of Housing and Public Works may need to factor in that it may take longer than a standard time to relocate people with disability given a range of other considerations including, family/community connections, formal/informal supports, need for an accessible property. QDN urges the Department of Housing and Public Works to consider these additional factors to ensure legislation is not introduced that has a negative impact on people with disability in government housing.

QDN strongly supports the recommended option and the withdrawal of without ground notices to leave. QDN supports the addition of the following reasonable grounds to end tenancies:

- the lessor or their immediate family will move in;
- the premises will need to be vacant for at least four weeks to undertake significant repair or renovation (QDN gives conditional support to this and acknowledges tenants with disability may require longer timeframes and additional support to relocate); and.
- for renters experiencing domestic or family violence.

QDN does not support any other additional grounds for ending tenancies. QDN does not support any reduction of notice periods for termination notices by lessors. QDN believes there should be penalties applied for the misuse of the lawful grounds to end tenancies, and the potential for renters to claim compensation.

QDN members also raised issues with Tenancy Databases and the need for the reforms to include greater clarity, and simplified processes and supports around applying to QCAT for an order to be removed under section 361 'unjust listing', allowing a co-tenant who can show that the cause of the listing was not their fault to seek a removal order.

Minimum Standards

The introduction of minimum housing standards is a welcome measure by many QDN members who struggle to find safe, affordable housing in the private rental market. The strengthening of repair and maintenance actions will ensure homes are safer for families. QDN members agree that enforced minimum standards will better protect people from dangerous conditions in their rental homes. Many people with disability experience challenges in negotiating property maintenance and basic repairs directly with a landlord. Some may fear of retribution from a landlord (eviction) or may be unable to speak up for themselves without support. A QDN member reflected on their own experience saying: "I had a situation where my front door wouldn't open, and I was frightened that my rent will go up if I asked for it to be fixed". Having legislation in place around Minimum Housing Standards will make these negotiations easier.

QDN is pleased the Consultation Regulatory Impact Statement acknowledges: "the reforms will empower tenants to enforce their existing rights without fear, ensure all rental accommodation is safe, secure and functional, increases the livability of rental properties". QDN is concerned timeframes of minimum housing standards in remote areas may be insufficient given costs of materials, availability of tradespersons and the condition of housing. This could result in potential loss of rental properties or increasing rent to the point it may be unaffordable. Some moderation on timeframes for rural and remote areas may result in less of an immediate cost on landlords and fewer impacts on tenants.

QDN strongly supports the recommended option in the Regulatory Impact Statement, the inclusion of minimum standards for rental properties and the strengthened repair and maintenance proposals outlined in the Regulatory Impact Statement. QDN supports the new repair orders that will:

- apply to a premise not a tenancy,
- stop a rental property being rented out and/or rent capped until a repair order is complied with
- allow the Residential Tenancies Authority to enforce the order and,
- for advocates to be able to seek repair orders on behalf of renters.

Domestic and Family Violence

It is well-known that people with disability experience violence and abuse at higher rates than others³⁴. QDN supports measures to strengthen tenancy laws to include additional protections that help tenants experiencing domestic and family violence to stay or leave their current rental property safely, including ending a tenancy within 7 days without the usual notice requirements and access to rental bond funds. The improvements are a start to removing some of the barriers that may force people experiencing domestic and family violence to continue living with their abusive partner or family member.

Renting with Pets

QDN welcomes proposed reforms that make renting with pets easier, while ensuring there are effective safeguards for property owners. Many QDN members have spoken about the value of having pets for companionship, to decrease their social isolation and to maintain good mental health. QDN is aware, that when vulnerable people with few supports are forced to choose between housing and keeping their pets, many will choose homelessness. QDN does not advocate for proposed changes that would permit lessors to charge pet bonds.

QDN strongly supports the recommended option that would require lessors to have a reasonable ground (prescribed by law) to deny a tenant's request for a pet when it complies with other laws and by-laws prohibiting the pet/pet type. In stage two, these reforms should go further to better support renters with pets during the application process.

QDN recommends further consideration around a pet bond, given tenants already pay bonds. Any requirement for tenants to undertake carpet cleaning or pest control should only be related to the pet type. For example, flea control should be applicable for dogs and cats, but not goldfish.

³ See: "Not Now, Not Ever Report" Recommendation 10 on Domestic and Family Violence and People With Disability: <https://www.csyw.qld.gov.au/campaign/end-domestic-family-violence/about/not-now-not-ever-report>

⁴ See: <https://www.1800respect.org.au/inclusive-practice/supporting-people-with-disability/>

Minor Modifications

QDN welcomes the proposed reforms around making basic modifications to properties easier to negotiate for tenants. For many QDN members, private rental is either not an option due to affordability or is made more difficult due to the need for modifications around making a property accessible. According to the Consultation Regulatory Impact Statement, 55% of tenants surveyed rated accessibility modifications for people with disability as an important minimum housing standard. The Consultation Regulatory Impact Statement also acknowledges: “Restrictions on tenants’ ability to make modifications may increase risk of injury and fatality among vulnerable cohorts who require small changes for accessibility, safety and security reasons”.

QDN concurs with the Consultation Regulatory Impact Statement that streamlined processes for minor modifications to improve accessibility for people with disabilities may also contribute to Queensland Government actions under the state disability plan, All Abilities Queensland: opportunities for all and The Queensland Plan – Queenslanders’ 30-year vision.

QDN urges the government to define what is considered a minor modification. Currently the proposed reforms cover minor modifications. In the context of the NDIS and aged care reforms where people are living in the family home, QDN believes the reforms may need to cover more than minor modifications if this need can be verified by therapist assessments and the landlord can be assured the property can be restored to its original state through grants that take the financial burden away from tenants and current make good arrangements.

QDN believes the proposed reforms are a start to improving access to timely modifications relating to accessibility, health and safety, security and access to telecommunications. QDN notes that agreements will still need to be reached on what occurs to the modifications on exit. QDN believes more needs to be done to support people with disability with onerous out of pocket expenses and obligations to restore a property to its original state post a tenancy particularly given, the Consultation Regulatory Impact Statement states: “Some property owners noted that older people and people with disability are often the ‘best’ tenants and, where feasible, the installation of accessibility features will improve attraction and retention of these tenants... who tend to prefer longer tenancies”.

QDN notes that in Stage Two of the reforms, a ‘restoration bond’ may be considered to “be used at the end of the tenancy to rectify, restore or repair the minor modifications”. While this is flagged as a possible Stage Two reform, QDN strongly opposes the introduction of this bond due to the financial hardship this may place on renters with disability, many of whom may be on low incomes. QDN proposes a possible solution could be the development of Restoration Grants administered by Government to assist people with restoration costs associated with ending a tenancy.

QDN supports the recommended option in the Consultation Regulatory Impact Statement with some variation. Renters should have the ability to undertake health and safety or amenity minor modifications with prior notification to the lessor. A definition of minor modifications should be included in the changes and qualified tradesman used (only) when appropriate. If the lessor opposes the tenant’s proposed minor

modifications, the lessor should be required to use the dispute resolution process within a prescribed timeframe.

Other considerations

QDN believes government should consider reversing the onus of proof for excessive rent increases i.e. over 20% of Consumer Price Index (CPI) so lessors justify the increase rather than tenants having to challenge them.

Currently lessors may end tenancies without any grounds and the tenant may be subjected to retaliatory evictions. The fear of this happening undermines confidence in exercising other rights as a tenant. These fears are further compounded when a tenant has a disability as there may literally be nowhere else to go due to the need for accessible housing. The proposals to have a reason in law to end a tenancy, and sanctions against their misuse, will provide greater balance between lessors and tenants.

QDN believes the reforms have the following benefits:

- safer homes
- more stable tenancies which benefit tenants and lessors
- an ability for renters to make a place their home
- increased willingness for tenants to invest their time and money into their rental home e.g. making a garden
- fewer animals being euthanised
- stable tenancies
- steady income for lessors
- improved health and wellbeing for tenants as they will have greater housing security

QDN urges further consideration around reforms that result in tenants having to pay additional bonds such as pet or restoration bonds, as this will be barrier for those on low to moderate incomes. Tenants who enter a new tenancy and are resolving disputed bond claims on the previous property may potentially have thousands of dollars caught up in bonds.

Conclusion

QDN commends the direction of the proposed rental reforms and gives in principle support to the Stage One rental reforms set out in the Consultation Regulatory Impact Statement. QDN believes further clarity is required around ending tenancies fairly in relation to government rental property and encourages government to define further what is considered as a minor modification. QDN looks forward to a fairer renting future for all Queenslanders, including people with disability, many of whom may never be able to own their own home. QDN looks forward to engaging further in the Renting in Queensland reforms when the second stage is released for comment.

Queenslanders with Disability Network

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