



Tenants Queensland

Submission to the Queensland Government

on the discussion paper

Ensuring the annual rent increase frequency limit is effective

AUGUST 2023

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1. About Tenants Queensland

Tenants Queensland (TQ) is a statewide community and legal service providing free tenant advisory services for residential tenants. TQ aims to protect and improve the rights of all people who rent their home in Queensland. This includes renters in private rental accommodation or social housing and renters in more marginal tenures such as caravan parks and boarding houses.

TQ is the manager and lead provider of the Queensland Statewide Tenant Advice and Referral Service (QSTARS) program initiated by the Queensland Government in 2015. QSTARS provides quality, free, independent advisory services to tenants across Queensland. Through QSTARS and our Community Legal Centre's Program work, TQ assists renters to understand and exercise their legislative rights and responsibilities, and ultimately, to manage and sustain their tenancies. Our services are directed to those most in need.

TQ operates a range of other projects. Our Domestic and Family Violence Sector Capacity Building Project supports DFV workers when working with clients with renting issues. Our Financial Counselling Project provides additional support for private renters impacted by cost-of-living pressures and spiralling rental costs.

Since forming in 1986 around the need for the centralised collection of tenant bonds, TQ has been at the forefront of all the State's progressive tenancy law reforms.

TQ operates a statewide network of tenant advisory services and speaks to tens of thousands of renting households every year. Our policy positions are developed by drawing on the knowledge and understanding of the situation for renting households, as well as other research and policy development.

2. Introduction

TQ commends the Queensland Government on seeking to address the issue of regulatory compliance with recently changed tenancy laws. This followed evidence of emerging rental market practices which, prime facie, attempted to circumvent the legislative intent to limit the frequency of rent increases to once per year.

TQ saw evidence of this emerging practice during the daily provision of tenant advisory services. These practices included ending a tenancy, using the 'End of a Fixed Term' and commencing another tenancy at a higher rent – including where the offer of a new fixed term was withdrawn in order to evict the tenants; attempts to rearrange the names of the tenants, approved occupants and occupants on the tenancy agreement; and, the issuing of short-term tenancy agreements.

3. Summary of Tenants Queensland's Response

TQ offers support to the Queensland Government's proposal. However, we believe there are more effective mechanisms to stabilise rents in Queensland.

The following is a summary of our response.

1. The policy intent to stabilise rents is strongly supported by TQ.
2. TQ supports the government's proposal but considers there are better options to effectively limit the frequency of rent increases.

3. TQ proposes the following option to both limit the frequency of rent increases as well as the quantum of those increases:
 - A. Limit rent increases to once annually for sitting rent; and,
 - B. Limit the quantum of rent increases for sitting tenants so that rent cannot be increased more than the Consumer Price Index¹ (CPI) or a regulated amount such as 3% (the Reserve Bank's aspiration for inflation); and,
 - C. Remove the ability to end a tenancy due to the 'End of a Fixed Term'; and ,
 - D. Allow for a market rent at the commencement of a new tenancy².
4. TQ proposes a second, simpler method to regulate the frequency of rent increases (without limiting the quantum of the increase). That is, remove the ability to end tenancies for the 'End of a Fixed Term'. This will not by itself stabilise rents but will provide a mechanism to more effectively apply an annual limit to rent increase frequency for sitting tenants.
5. TQ proposes that the Queensland Government implement a simple register of landlords for both short- and long-term rentals (see p 7).

4. Response to the Consultation Paper questions

How effective would the potential reform be to achieve the reform objectives?

TQ considers that the potential reforms would go part way to achieve the reform objectives. Our response is set out under objective a) and b).

Objective a) ensure the annual rent increase frequency limit achieves the policy intent of effectively stabilising rents in the private rental market

TQ supports the change to limiting rent increases to once annually and the Queensland Government's action to improve compliance with this change.

However, limiting the frequency of rent increases, by itself, will not stabilise rents. With no additional regulation, rents will simply continue to jump annually at unaffordable rates while market conditions allow.

There is no doubt that large rent increases are impacting Queensland renters.

Data from the Residential Tenancies Authority (RTA) shows a median increase in all general tenancy rents of over 15% in the year to June 2023. This is the increase in rents for new tenancies, based on bond lodgement data.

TQ's own service delivery data shows much larger increases, with clients being sitting tenants facing rent increases in subsequent agreements. Of over 400 households which contacted TQ since January 2023, median increases were at 21% of the current rent.

On average, rent increase were \$100 per week, or just under 25% of the current rent. 30% of TQ clients had increases of between 25% and 50% of their current rent, while 4.5% had increases of

¹ An exception is where the lessor has improved the amenity of the property (beyond required repairs and maintenance) and successfully takes a claim to QCAT to increase the rent above the CPI. The renter must have the opportunity to respond to the claim. Improving the amenity would include significant renovations etc.

² This applies when a new household is signed up for the property and moves in. It does not apply during a tenancy i.e., between tenancy agreements (with at least one person remaining in the property).

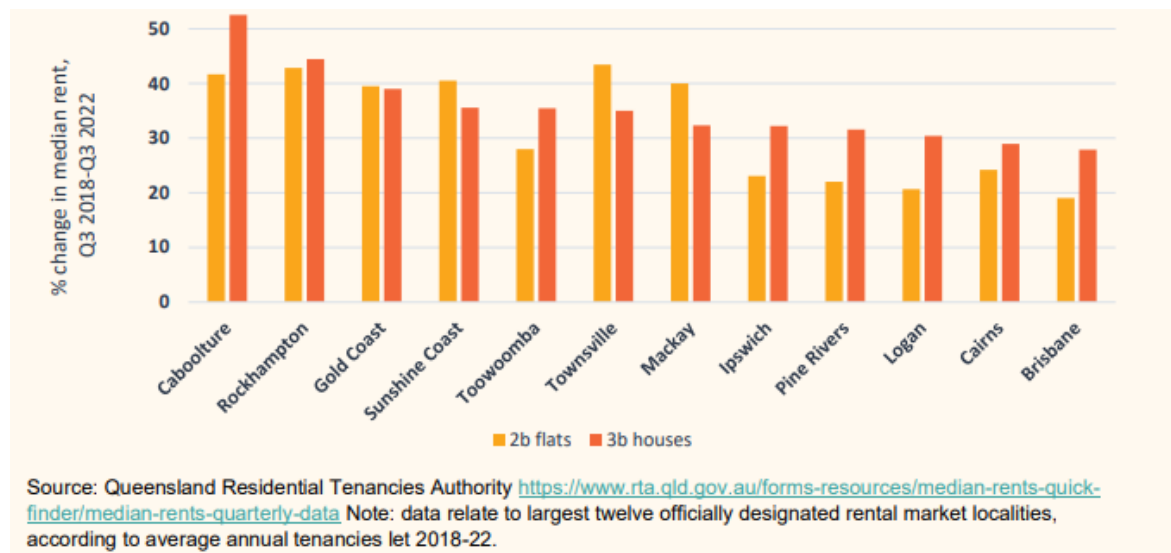
between 50% and 75%. The largest increase was \$705 per week, bringing the rent to \$1500 for a sharehouse of six people.

Using a Consumer Price Index (CPI) figure of 6.1%, only 6% of rent increases were in line or below this amount.

Whilst affordability issues are felt most acutely by those on the lowest incomes (due to the loss of affordable stock and the failure for incomes to rise as quickly as rents and other cost of living expenses), large rent increases are impacting a broad range of renters. Issues of affordability appear to be moving upwards from the lowest income renters, impacting those on the second lowest and medium income quintiles.

According to ABS 2020 data over half renters on lower incomes were in housing stress³. The May 2023 Corelogic report⁴ looking at imputed rents found that renters on medium incomes are handing over nearly one-third of their income for a new lease as rents continue to rise.

Pawson et al⁵ summarised Queensland rent increases 2018 - 2023 in the graph below.



Many renters contacting our service about rent increases have lived long-term in their current tenancy and are now facing unaffordable increases. Some renters have reported getting a second job to afford a recent rent rise but fear the end of the current lease as they have no ability to absorb an additional increase. Those renting households which include dependent children – approximately 42% - harbour the additional fear of the impact on their children should they be rendered homeless.

These rent increases are usually presented as ultimatums. Commonly TQ clients report, with two to three months left on their fixed term tenancy, a new agreement is sent at a much higher rent. If they do not sign, the accompanying Notice to Leave for the End of a Fixed Term takes effect. It is extremely stressful for renters to receive these notices together. It indicates a refusal by the lessor or agent to negotiate. If the renter is fortunate, they may be given a short grace period between the offer of the new agreement, and the Notice to Leave for the 'End of the Fixed Term'.

Either way, they are left with hard, stressful choices to either accept an unaffordable rent or attempt to find another suitable property at a more affordable price, with no assurance they will. In addition,

³ <https://www.abs.gov.au/statistics/people/housing/housing-occupancy-and-costs/2019-20>.

⁴ P2 ANZ Corelogic, *Housing Affordability report*, <https://www.corelogic.com.au/news-research/reports/housing-affordability>

⁵ Pawson H, Clarke A, Moore J, van den Nouweland R, Ng M, (2023) City Future Research Centre UNSW (p.27)

the notice to end the tenancy will usually end on the last day of the fixed term, providing no flexibility for them to move without paying double rent if they find somewhere in time.

Limiting rent increases to once per annum, effectively or otherwise, will not alleviate the issue of unfair and unaffordable increases, and simply limiting the frequency of rent increases will not stabilise rents. Additional regulation, to limit the quantum of the rent increases during a tenancy, is required for rent stabilisation in the private rental market.

A limit to the amount that rent can be increased annually will smooth out the increases currently being experienced. This will protect consumers from the bill shock which emerges from turbulent market conditions.

Objective b) prevent or disincentivise the emerging practice of ending tenancies with existing renters and entering shorter leases with new renters at a higher rent to avoid the annual rent increase frequency limit.

TQ considers the proposed change will go some way to meeting this objective, with following caveat.

Compliance

The impact of the proposed changes will rely on the effectiveness of the compliance regime.

Enforcement regimes that rely on consumers – in this case renters - to raise issues of compliance are inherently flawed because consumers have less power and knowledge and, for renters, they risk retaliatory action being taken against them. Retaliatory action may include termination of their tenancy, especially where tenancies can be ended arbitrarily. This is the case in Queensland, with the availability of the ‘End of a Fixed Term’ as a ground for termination.

The government proposal is for bond lodgements and top-ups to be monitored by the Residential Tenancies Authority (RTA) for compliance, as well, to allow renters to use the existing complaints process. TQ notes that a bond top up is not required if the rent increases. We expect that lessors and agents aware of this, who hope to circumvent the laws, will be unlikely to request a bond top-up from the tenant in order to avoid scrutiny from the RTA.

Renters will fear retaliatory action if they make a complaint.

For the government proposals to be effective, more pro-active actions will be required from the RTA (which has recently come under scrutiny for its limited compliance action⁶).

TQ considers these options could be strengthened in a number of ways.

By introducing a bond exit survey (see Attachment One, which TQ has advocated for previously) additional data could be collected in regard to the exiting rent. The RTA could monitor these amounts and follow up where compliance appears to be lacking.

In addition, or as an alternative, requirements for lessors/agents to register a rent increase could apply via an online system. Or, at intervals such as six monthly, the RTA could send out communications to both parties to the bond via a text or email, requiring information from lessors/agents and voluntarily requesting information from renters on the current rental price. Where compliance appears to be lacking, the RTA could investigate.

⁶ <https://www.abc.net.au/news/2023-08-05/residential-tenancies-authority-rent-crisis-queensland/102688060>

The RTA should have an annual target for compliance spot checks.

Hardship provisions

The government proposal suggests that a lessor could apply to the Queensland Civil and Administrative Appeals Tribunal (QCAT) to allow them to increase the rent before the annual rent increase frequency was met if complying with the limit would cause the rental property owner undue hardship. In deciding an application, QCAT would have to consider representation from the renter about the proposed rent increase and how it impacts their affordability and ability to sustain the property.

Whilst TQ considers these sections somewhat complex, we applaud the government for including affordability considerations for renters. Taking this idea and extending it to considerations of what is an excessive rent increase or significant change (rent increase) for sitting tenants would have a positive impact on rental affordability in Queensland.

What other impacts may the potential reform have on rental sector stakeholders and Queensland's private rental and broader housing market?

The policy intent to stabilise rents is strongly supported by TQ.

If the Queensland government applies a rent increase limit to the property (rather than the tenancy), some renters may be offered tenancy agreements where the rent is increased early in the term.

For example, if a tenancy ended nine months after the previous rent increase, and the landlord or agent is prevented from increasing the rent within 12 months from the previous increase, there are two likely responses from the industry. They may offer new tenants:

- A short-term agreement at the current rent, and then another agreement at an increased rent. This renter may not be aware of how much the rent on the subsequent agreement might be. Or;
- A longer-term agreement with an early rent increase in the special terms.

Where a fixed term agreement provides for a rent increase during the term, the *Residential Tenancies and Rooming Accommodation Act (2008)* (the Act) requires two months' notice before it can be lawfully increased [s.91(4)]. This increases the likelihood that tenants will initially be offered a short-term agreement (lasting for the rest of the 12 months before the rent can again be increased).

It would be useful for the Queensland Government to seek information from the RTA about how many tenancies end within 12 months, to understand the extend of these circumstances.

Are there any unintended consequences or adverse impacts the potential reform may have?

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What other options or approaches could government consider taking to address the issue?

To effectively achieve the government's stated intent of stabilising rents in the private rental market, TQ advocates the following position:

- A. Limit rent increases to once annually for sitting rent; and,
- B. Limit the quantum of rent increases for sitting tenants so that rent cannot be increased more than the Consumer Price Index⁷ (CPI) or a regulated amount such as 3% (the Reserve Bank's aspiration for inflation); and,
- C. Remove the ability to end a tenancy due to the 'End of a Fixed Term'; and ,
- D. Allow for a market rent at the commencement of a new tenancy⁸.

The above changes, in coordination, will effectively stabilise rents in the private sector, as per the government's policy intent.

The changes above maintain returns to investors by allowing for regular but moderated rent increases for sitting tenants, and a return to market rent if tenancy ends and a new household moves in.

For renters, rent increases are smoothed out, making them more predictable and affordable. The Queensland Government uses a similar process to [calculate the application of land tax](#) for Queensland landlords, by using the averaged value of the land over the current and previous two financial years. This prevents bill shock, which is what limiting rent increases will do for Queensland renters.

To make this system work – one which allows for a market increase between tenancies but protects sitting tenants from unreasonable increases, arbitrary grounds for ending tenancies **must** be removed (that is termination for the 'End of a Fixed Term'). Otherwise, termination notices for the 'End of a Fixed Term' will be used to push sitting renters out, in order to achieve an additional rent increase within the 12-month limit.

Similar rent regulation to the above occurs in provinces in Canada and was introduced late last year in a temporary capacity in Scotland. Scotland uses limits of 3% for rent increases, whilst Ontario for example, develops a guideline using the CPI but also caps the increases to protect renters from unaffordable jumps and the risk of renters losing their housing as a result. [In June 2022, the guideline limited rent increases to 2.5%](#) as opposed to the 5.3% CPI increase.

A second alternative

The simplest solution to the issue outlined in the discussion paper is to remove the ability to end tenancies for the 'End of a Fixed Term' (or limiting their use to the first fixed term agreement, as is the case in Victoria).

This alone will not stabilise rents as it fails to limit the quantum of the rent increases. Large rent increases could be used to force tenants to leave, although renters would have access to QCAT to

⁷ An exception is where the lessor has improved the amenity of the property (beyond required repairs and maintenance) and successfully takes a claim to QCAT to increase the rent above the CPI. The renter must have the opportunity to respond to the claim. Improving the amenity would include significant renovations etc.

⁸ This applies when a new household is signed up for the property and moves in. It does not apply during a tenancy i.e., between tenancy agreements (with at least one person remaining in the property).

challenge an excessive rent (s.92 of the Act for periodic agreements) or a rent increase in a new fixed term as a significant change (s. 71(6) of the Act) and s105A of the Act for residents.

However, such a change will generally place renters in a better position to assert their rights and reduce the incentive to offer short term tenancies with the aim of re-tenanting within the 12-month limit for rent increases for sitting renters.

Improving Transparency: A Register of Landlords – short- and long-term stays

The lack of insight into the rental market is a barrier to making effective rental market policy and enforcing regulation.

Recently Queensland's Deputy Treasurer announced that the government will implement a short-term rental regulation system, which will 'monitor short term rental accommodation activity' and 'provide invaluable insights into the impact of STRA on our housing market over time to inform evidence-based regulation'.

TQ believes this register should be public, containing de-identified information. It should also be extended to cover residential tenancy lettings as well, extending the opportunity to deliver evidence-based regulation throughout the residential rental market. [Queensland already requires registration of Residential Services.](#)

TQ proposes that the Queensland Government implement a simple register of landlords for both short- and long-term rentals. [A register, similar to Scotland,](#) would provide on-going transparency about how rental stock in Queensland is being used and provide important insights into Queensland investors and their behaviour. For example, what is the transition of properties between short or long-term rental accommodation, how long does stock remain in the market, and does it return over time.

The public register would also identify any outstanding compliance issues with a property, including outstanding Repair Orders, introduced recently under Stage One tenancy law reforms. It would be a platform where lessors can register the rental costs on an annual basis.

A register could be self-funded (through a modest registration fee) and deliver a mechanism to ensure minimum legal and risk management requirements are undertaken.

We included more on this topic in our response to second stage tenancy law reforms.

5. Attachment One

Understanding Why Tenancies End – A Bond Exit Survey Proposal

To support the delivery of evidence-based policy making, Tenants Queensland (TQ) is proposing the introduction of a Bond Exit Survey.

The 2016 Census data shows that renters in the private sector are three times more likely to have moved in the previous year than other tenure types such as owner-occupiers (with or without a mortgage) or social housing tenants. However, it is impossible to know from the data whether they moved of their own accord or because they were required to move by the lessor.

The evidence available about how and why tenancies are ended is extremely limited. This will not change as new laws commence in Queensland, following the recent passage of the *Housing Legislation Amendment Bill 2021*. These new laws make significant changes to how tenancies can be ended though, as the government is well aware, tenant advocates do not consider the changes go far enough to provide renters with needed stability and certainty. The implementation of a simple Bond Exit Survey would help to develop evidence for future policy consideration and answer questions such as “how many tenants are evicted each year, and on what grounds?”

A Bond Exit Survey would also help deliver on Recommendation 2 from the Community Support and Services Parliamentary Committee Report (Report No 7, 57th Parliament) to develop a data collection framework for how residential tenancies are managed and ended.

A Bond Exit Survey

TQ recommends the development and introduction of a simple, voluntary survey implemented when a bond is claimed from the Residential Tenancies Authority (RTA). The questions should be simple, quick and non-controversial to encourage a high response rate. These questions would be embedded, as far as possible, in the usual bond claim process. The survey would be sent by the RTA to all renters, lessors and real estate agents when a bond is claimed, with a link to the survey to the other party. The results would be correlated.

TQ considers the survey could encompass the answering of just three questions, including one which draws out the rent at the end of the tenancy. This would expand our knowledge of rent entry costs (on bond lodgement) to include rent exit costs on bond claim. The questions we recommend are:

1. How did the tenancy end?
2. Why did the tenancy end?
3. What was the weekly rent at the end of the tenancy?

Drop down boxes would be tailored to the type of tenancy (rooming or general) and whether the person receiving the survey is a tenant or the other party (agent or lessor).

- Question 1 would for example list options such as by notice from the lessor or to the lessor, by QCAT order etc.
- Question 2 would list the reasons as set out in the Act
- Question 3 would allow for a numerical entry.

Once developed, the survey could be piloted before full roll-out across the state.

The implementation of a quick, simple Bond Exit Survey would help policy makers understand the experience of renters, lessors and agents and provide a balanced view of the renting experience of all key stakeholders.

Aggregated responses should be made publicly available, published with the median rents data.

Other Bond Data Reporting

The RTA currently requests details of bond claims when claimants use the QGov-enable web-based services. For example, details are sought regarding the claim, such as whether it is for cleaning, painting etc. No data has been available about the details in those claims, nor how those claims compare to what is eventually paid out. TQ calls for the public availability of this data to further inform policy discussion and development.